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No. 04-1329

In the Supreme Court of the United States

OCTOBER TERM, 2005

ILLINOIS TOOL WORKS INC. AND TRIDENT, INC.,

Petitioners,

v.

INDEPENDENT INK, INC.,

Respondent.

On a Writ of Certiorari to the United States Court of Appeals for the Federal Circuit

JOINT APPENDIX

VOLUME 1 OF 3

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PETITION FOR CERTIORARI FILED APRIL 4, 2005
CERTIORARI GRANTED JUNE 20, 2005

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Chronological List of Relevant Docket Entries

08/14/1998 – Complaint Filed by Plaintiff Independent Ink, Inc. in the United States District Court for the Central District of California

01/17/2001 – Fourth Amended Complaint Filed by Plaintiff Independent Ink, Inc. in the United States District Court for the Central District of California

10/03/2001 – Motion for Summary Judgment for Per Se Violation of the Antitrust Laws by Patent Tying Filed By Plaintiff Independent Ink in the United States District Court for Central District of California

11/13/2001 – Motion for Partial Summary Judgment On Independent Ink's Second and Third Claims for Antitrust Violations Filed By Defendants Trident, Inc. and Illinois Tool Works Inc. in the United States District Court for Central District of California

06/03/2002 – Order (1) Denying Plaintiff's Motion for Partial Summary Judgment; (2) Granting Defendants' Motion for Summary Judgment

12/22/2003 – Judgment Granted In Favor of Defendants Against Plaintiff

01/13/2004 – Plaintiff's Notice of Appeal Filed

01/25/2005 – Opinion and Judgment of the United States Court of Appeals for the Federal Circuit

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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

INDEPENDENT INK, INC., a California corporation Plaintiff vs. ILLINOIS TOOL WORKS, INC., a Delaware ILLINOIS TOOL WORKS, INC., a Delaware corporation; TRIDENT, INC., a Connecticut corporation, and DOES 1 through 50 Defendants.	CASE NO. CV98-6686 NM (CWx) **FOURTH AMENDED COMPLIANT FOR FEDERAL DECLARATORY RELIEF; FEDERAL ANTITRUST VIOLATION; STATE ANTI-TRUST VIOLATION; AND CALIFORNIA UNFAIR COMPETITION** DEMAND FOR JURY TRIAL

Plaintiff Independent Ink, Inc., (hereinafter "Independent") complains and alleges as follows:

JURISDICTION AND VENUE

1. These claims arise under the laws of the United States, namely the United States Patent Law (35 U.S.C. § 1, *et seq.*), the Sherman Act (15 U.S.C. § 1, *et seq.*), the

Declaratory Judgment Act (28 U.S.C. §§ 2201 and 2202) and the laws of the State of California. Jurisdiction is proper under 28 U.S.C. §§1331, 1367(a) and exclusive under 28 U.S.C. 1337(a). 1339(a).

2. Venue is proper in this Judicial District under 28 U.S.C. §§ 1391(b) and (c) in that Plaintiff Independent Ink, Inc. ("Independent") resides within this Judicial District, Defendants transacts affairs within this Judicial District and a substantial part of the events or omissions giving rise to the claims herein occurred within this Judicial District.

THE PARTIES

3. Independent is a California corporation having its principal place of business at 13700 Gramercy Place. Gardens, California 90249 and resides in this Judicial District.

4. Defendant Trident, Inc. ("Trident") is formally a Connecticut corporation having its principal place of business at 1114 Federal Road, Brookfield, Connecticut 06804 and committed the acts complained of in this Judicial District.

5. Defendant Illinois Tool Works Inc. ("ITW") is a Delaware corporation with its principal place of business at 3600 West Lake Avenue, Glenview, Illinois 60025-5811 and committed the acts complained of in this Judicial District.

GENERAL ALLEGATIONS

6. Independent is a distributor and supplier of ink and ink products in the field of printing and related arts and industries.

7. Independent has been and is distributing, inks and related products, and selling same to distributors, retailers, and customers in this Judicial District.

8. Defendants have been and are at present manufacturing industrial piezoelectric print heads, containers and ink for

use therein and selling them to customers within this Judicial District and in interstate commerce.

9. ITW is the owner by assignment of United States Patent No. 5,343,226 (the "226 patent"), issued to John F. Niedermeyer, et al., as joint inventors on August 30, 1994.

10. ITW has acquired from Trident by assignment, numerous patents which cover defendant's patented piezoelectric print head system. Defendant ITW acquired the assets of Trident, (including the '226 and other patents) and has continued to operate the business in which Trident was previously engaged.

11. Defendants have and continue to assert, through their sales practices, contracts, patents and patent licenses to numerous third parties, including Independent's customers, that they may buy certain products, including ink for use in Defendant's patented piezoelectric print head system, solely from Defendants, and that no one may reuse or refill ink bottles purchased from Defendants; otherwise, they would be held in breach of contract and/or charged with patent infringement of their above-referenced patents.

FIRST CLAIM FOR RELIEF
(Federal Declaratory Relief)
Against all Defendants

12. This claim is for declaratory relief under the Federal Declaratory Judgment Act; 28 U.S.C. §§ 2201 and 2202, and arises from an actual and justifiable controversy between Independent and Defendants regarding the alleged non-infringement of, and invalidity of, the '226 patent.

13. Independent incorporates by this reference paragraph 1 through 3 of this Complaint as though fully set forth herein.

14. A justifiable controversy has arisen between the parties in that Defendants have contended that Independent infringes the '226 patent by its sale and distribution of certain inks and related services.

15. Independent contends that it has not infringed the '226 patent for, among others, the following reasons:

(a) Defendants have misused the '226 patent by attempting to enforce it so as to prevent the sale of the non-patented ink, sold by Independent.

(b) The '226 patent does not cover Independent's products or services.

(c) The '226 patent is anticipated by or is obvious in light of the prior art.

16. By reason of the foregoing, an actual case and controversy has arisen and exists between the parties as to the enforceability of the '226 patent and the alleged infringement of the same by Independent.

SECOND CLAIM OF RELIEF
(Federal Antitrust Violation)

17. This claim for relief arises under 15 U.S.C. § 1, *et. seq*, and is alleged against both Defendants.

18. Independent realleges the allegations in paragraphs 1 through 16 of this Complaint as though fully set forth herein.

19. Defendants have substantial economic and market power in the market for commercial ink jet inks, patented containers for said commercial ink jet inks and patented printing systems in which said commercial ink jet inks are used.

20. Defendants have been and are selling their commercial ink jet inks and containers and, printing systems for said commercial ink jet inks in interstate commerce to original equipment manufactures (OEMs) and consumers with the condition, that the same OEMs, and consumers will not purchase commercial ink jet inks separate from anyone other than Defendants', nor will they sell any ink not manufactured by Defendants. The agreements between Defendants and the OEMs provide patent licenses for all of the patented printing

system and the patented print head related technology purchased from Defendants. These agreements and licenses specifically require the OEMs and their customers to purchase all of their consumables, including ink, for use with their patented technology from Defendants.

21. Defendants' conditions and conduct have the effect of substantially eliminating competition in the market for ink which is used in Defendants' patented piezoelectric printing system, including ink which can be used to refill Defendants' patented containers. These actions comprise unreasonable restraints of trade, affect interstate commerce, and are designed as part of a larger scheme by Defendants to monopolize the above-referenced ink market and to prevent Independent and others from freely competing therein.

22. Defendants have attempted to broaden the scope of protection of the '226 patent through imposition of the single-use license as well as attempting to broaden the scope of the patent licenses set forth in the OEM-Trident contracts.

23. Defendants' attempts to broaden the scope of protection of the '226 and other patents through imposition of the single-use license and the OEM contract restrictions have an unreasonably anticompetitive effect on the relevant market and constitute illegal tying.

24. Defendant's use of their market power to impose a requirement that all ink for use in that system be purchased from Defendants is an illegal tying restraint of trade.

25. Defendants' overall course of conduct including but not limited to, the specific acts set forth above as well as other acts such as filing meritless litigation, threatening breach of warranty for those who use ink from sources other than Defendants, threatening litigation, threatening the withholding of print heads, and acquiring OEMs constitutes an illegal restraint of trade.

26. The Defendants have also conspired with each other and with their OEMs to keep ink "pirates" from selling ink in competition with Defendants.

27. The foregoing conduct of Defendants constitutes monopolization, conspiracy to restrain trade, conspiracy to monopolize and attempted monopolization in violation of the antitrust laws of the United States for which Independent is entitled to recover treble the damages it sustained as a result of said conduct.

28. By reason of Defendants' illegal conduct, Defendants have unlawfully and wrongfully derived, and will continue to unlawfully and wrongfully derive, income and profits from these acts, and Independent by reason of this illegal conduct has sustained, and will continue to sustain, substantial injury, loss and damage of the type the federal antitrust laws were designed to prevent in an amount according to proof.

29. This conduct by Defendants has been deliberate, willful, and malicious.

30. Unless restrained and enjoined by this Court, Defendants will continue to act in violation of the antitrust laws of the United States, to cause harm to the consuming public, and to injure Independent's legitimate business practices.

31. Defendants' conduct has caused Independent irreparable injury and unless Defendants' acts are immediately and permanently enjoined, Independent will continue to suffer irreparable harm and injury.

THIRD CLAIM OF RELIEF
(State Antitrust Violation)

32. This claim for relief arises under California Business & Professions Code §§ 16727 *et seq*, and is alleged against all Defendants.

33. Independent realleges the allegations in paragraph 1 through 29 of this Complaint as though fully set forth herein.

34. Defendants' conduct is in violation of California Business & Professions Code §§ 16727 *et seq*, and Independent is entitled to all the relief provided herein.

FOURTH CLAIM FOR RELIEF
(California Unfair Competition)

35. This claim for relief arises under the California Business & Professions Code §§ 17200 *et seq*, and 17500.

36. Independent realleges the allegations in paragraphs 1 through 29 of this Complaint as though fully set forth herein.

37. Defendants' above-enumerated acts constitute a pattern of behavior pursued in the course of Defendants' businesses and involved class-wide acts directed at distributors, retailers and consumers.

38. Defendants impermissibly extended the scope and extent of the '226 patent and Defendants' other patents. Said patents were not infringed by any products of Independent.

39. Defendants' conduct was unfair and fraudulent behavior pursued in the course of their businesses, as described above.

40. Defendants made statements in connection with the sale of their goods and merchandise that Independent was in violation of their patents and that Independent's customers who were purchasing Independent Ink, Inc.'s inks were in violation of Defendants' rights. Defendants have also made statements to their customers and Independent's customers that Defendants would prevail against Independent in their suit for infringement of the '761 patent, even after the decisions of this Court made it clear that they could not possibly prevail in that action. These statements were false and misleading, and likely to deceive a substantial segment of their intended audience.

41. Defendants have wrongfully and unlawfully derived income and profits from their activities and will continue to

so derive income and profits from their unfair business practices, and Independent has sustained, and will continue to sustain, substantial injury, loss and damage in an amount according to proof.

42. Defendants' activities have caused Independent irreparable injury and unless Defendants' unfair business practices are immediately and permanently enjoined, Independent will continue to suffer irreparable harm and injury.

43. Independent is informed and believes, and on such basis alleges, that this conduct by Defendants has been willful, wanton, and malicious.

FIFTH CLAIM FOR RELIEF
(Fraud)

44. Independent realleges the allegations in paragraphs 1 through 29 and 37 through 43 of this Complaint as though fully set forth herein.

45. Defendant's conduct constitutes fraudulent misrepresentation.

SIXTH CLAIM FOR RELIEF
(Intentional Interference With Prospective Business Advantage)

46. Independent realleges the allegations in paragraphs 1 through 29 and 37 through 43 of this Complaint as though fully set forth herein.

47. Defendant's conduct constitutes intentional interference with prospective business advantage.

SEVENTH CLAIM FOR RELIEF
(Negligent Interference With Prospective Business Advantage)

48. Independent realleges the allegations in paragraphs 1 through 29 and 37 through 43 of this Complaint as though fully set forth herein.

49. Defendant's conduct constitutes negligent interference with prospective business advantage.

WHEREFORE, Independent prays for judgment against Defendants as follows:

1. That this Court issue a declaration ruling that:

   (a) United States Patent No. 5,343,226 is invalid.

   (b) United States Patent No. 5,343,226 is unenforceable.

   (c) Independent did not and does not infringe United States Patent No. 5,343,226.

2. That this Court issue an Order that Defendants be required forthwith to supply Independent's counsel with a complete list of any individuals or entities with whom any Defendant, or any of its agents or representatives, have committed the acts complained of in this Complaint.

3. That this Court enjoin Defendants from committing any future acts of the nature of those complained of in this Complaint, and namely, from forcing or otherwise requiring its customers to refrain from purchasing replacement ink from Independent or any other supplier of such replacement ink and from other such unlawful, unfair, and/or fraudulent business practices.

4. That this Court order Defendants to pay to Independent such damages as Independent has sustained as a consequence of Defendants' actions, and account of all gains, profits and advances derived by Defendants from the acts complained of, together with appropriate interest thereon.

5. That this Court require an accounting and award Plaintiff the profits obtained by Defendants by virtue of the above-mentioned activities.

6. That the damages. awarded to Plaintiff be trebled in accordance with 15 U.S.C. §§ 15 and 1117.

7. That this Court award Plaintiff punitive damages for the Defendants' willful wanton, malicious and fraudulent conduct.

8. That Defendants pay Independent's costs and disbursements in this action, together with reasonable attorneys' fees; and

9. That Independent have such other and further relief as the Court may deem just and proper.

Respectfully submitted,

STRADLING YOCCA
CARLSON & RAUTH

Dated: January 16, 2001

/S/ EDWARD F. O'CONNOR
Edward F. O'Connor
Jan P. Weir

Attorneys for Plaintiff
INDEPENDENT INK, INC.

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DEMAND FOR JURY TRIAL

Plaintiff Independent Ink, Inc. hereby demands a jury trial in this matter.

Respectfully submitted,

STRADLING YOCCA
CARLSON & RAUTH

Dated: January 16, 2001

/s/ EDWARD F. O'CONNOR
Edward F. O'Connor
Jan P. Weir

Attorneys for Plaintiff
INDEPENDENT INK, INC.

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss
COUNTY OF ORANGE)

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is Stradling Yocca Carlson & Rauth, 660 Newport Center Drive, Suite 1600, Newport Beach, CA 92660-6422. On January 17, 2001, I served the within documents:

FOURTH AMENDED COMPLAIN' FOR: FEDERAL DECLARATORY RELIEF; FEDERAL ANTITRUST VIOLATION; STATE ANTITRUST VIOLATION; AND CALIFORNIA UNFAIR COMPETITION

☒ I sent such document from facsimile machine (949) 725 x 4100 on January 17, 2001. I certify that said transmission was completed and that all pages were received and that a report was generated by facsimile machine (949) 725-4100 which confirms said transmission and receipt. I, thereafter, mailed a copy to the interested party(ies) in this action by placing a true copy thereof enclosed in sealed envelop(s) addressed to the parties listed below.

☒ by placing the document(s) listed above in a sealed x envelope with postage thereon fully prepaid, in the United States mail at Newport Beach, addressed as set forth below.

☐ by personally delivering the document(s) listed above to the person(s) at the address (es) set forth below.

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Laura A. Wytsma, Esq.
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8000 Sears Tower
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I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than on day after the date of deposit for mailing in affidavit.

I declare that, I am employed in the office of a member of the bar of this court whose direction the service was made.

Executed on January 17, 2001, at Newport Beach, California.

/s/ ANN NELSON
ANN NELSON

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INDEPENDENT INK, INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

INDEPENDENT INK, INC., a California corporation Plaintiff vs. TRIDENT, INC., believed to be a Connecticut corporation, and Does 1 through 50, Defendants.	CASE NO. CV98-6686 NM (CWx) **DECLARATION OF BARRY BRUCKER IN SUPPORT OF INDEPENDENT'S REPLY TO TRIDENT'S OPPOSITION TO INDEPENDENT'S MOTION FOR SUMMARY JUDGMENT OF NON-INFRINGEMENT OF U.S. PATENT NO. 5,343,226 AND ANTITRUST VIOLATION**
TRIDENT, INC., a Connecticut corporation Counterclaimant, vs. INDEPENDENT INK, INC., a California corporation, and DOES 1 through 10 Counterdefendants.	DATE: August 28, 2000 TIME: 10:00 a.m. Hon. Nora M. Manella

I Barry Brucker hereby declare as follows:

1. I have personal knowledge of the facts set forth in this declaration and if called upon can and will testify to them in a court of law.

2. This declaration is largely supported by

(a) COMMON STOCK PROSPECTUS OF TRIDENT: **EXHIBIT 1**

(b) A PRESENTATION OF Mr. PAUL SCHOESSOW OF CAP VENTURES AT THE IMI TECHNICAL CONFERENCE '99 ABOUT THE MARKET SHARES OF HI - RESOLUTION CARTON CODING SYSTEMS: **EXHIBIT 2**

Please note: CAP Ventures located in Norwell, MA, is the leading consulting and technical research organization that has a focused team involved in the research and Industrial Marketing and Printing. IMI (Information Management Institute) is the premier technical information group that organizes conferences on Industrial Printing.

(c) A COPY OF A TRIDENT OEM SALES AND LICENSE AGREEMENT: **EXHIBIT 3**

(d) A copy of the letter to Tree Top (a company that uses patented Trident Printheads) forwarded to Independent Ink, Inc. by Tree Top to show why Tree Top would not buy refill ink from Independent Ink. **EXHIBIT 4**

(e) A COPY OF A HP CARTRIDGE LABEL: **EXHIBIT 5**

3. Trident (A division of Illinois Tool Works (ITW)) is the market leader in the field of Impulse Jet printhead and apparatus used for Hi Resolution Printing directly onto Shipping cartons / Kraft Paper. Trident has a firm hold on the market for direct Hi - Resolution printing on shipping cartons/ Kraft Paper.

4. Since we supply and solicit Hi-Resolution ink business from customers using Trident equipment located in many states, in the USA, I am aware that Trident and Independent Ink are involved in Interstate commerce of Inks for use in Hi-Resolution impulse printheads supplied by Trident.

5. As per paragraph 1, page 3, of the common stock prospectus (Exhibit 1), Trident (A division of ITW) designs and manufactures and markets impulse ink jet printheads, inks and other consumables and related components for the Industrial Market.

6. As mentioned in page 32, paragraph 2 of Exhibit 1, Trident offers fast Impulse printheads, subsystems and Ink delivery systems (Ink Jet apparatus) to OEM's under a licensing agreement.

7. As mentioned in exhibit 1, the common stock prospectus, Page 3 paragraph 2, and also in paragraph 2, Page 30, the largest application for Trident printheads and sub systems is Carton Coding which involves printing Graphics, Text and Scannable SCC & UPC Bar codes on shipping cartons.

8. As mentioned in exhibit 1, paragraph 3, page 8, Trident (now owned by ITW) printhead and apparatus sales are dependent on the top ten OEMs. The ten OEMs are:

a. Imaging Technologies Inc. (now owned by ITW)

b. Fox Jet (now owned by ITW)

c. Loveshaw (now owned by ITW)

d. Marsh

e. Diagraph

f. Mathews

g. Willet

h. Videojet

i. Imaje

j. Anser

9. As mentioned in page 32, paragraph 2 of exhibit 1, Trident has licensed its printheads, subsystems and apparatus to substantially all of the major providers of ink jet systems for carton coding applications. Also, as mentioned in page 38, paragraph 4, of exhibit 1 this market segment of carton coding using Piezoelectric impulse printheads is controlled by the OEMs who in turn are licensed by Trident.

10. As per page 32, paragraph 3 of the prospectus (Exhibit 1) and the PIE chart of CAP ventures (exhibit 2) Trident by virtue of its Licensing arrangement with substantially all of the major providers of the Hi-Resolution Ink Jet systems for carton coding applications has well over 95% of the market for Hi-Resolution printing on Carton boxes.

11. As mentioned in exhibit 1 page 32, paragraph 1, The objective of Trident/ITW is to remain a leading supplier of Impulse Ink Jet systems and related consumables to the Industrial Market of which Carton Coding is the largest segment of Trident's business.

12. The OEM customers construct Carton coding systems using Tridents Piezoelectric Impulse Ink Jet printheads, ink reservoirs and Ink. This is also further supported by paragraph 4, page 33 of Exhibit 1.

13. As mentioned in page 35, paragraph 4 of exhibit 1 Trident is also committed to providing its OEM customers and their end users with *all* of their Piezoelectric impulse ink jet products and service requirements.

14. As mentioned by Trident in exhibit 1, page 41, paragraph 3 Trident licenses the Piezoelectric impulse ink jet products and ink jet apparatus to all its OEM's under a strict licensing arrangement. A copy of a Trident OEM Sales and License agreement is attached hereto as exhibit 3. The License agreement states that Trident printheads have to be

used *only* with their Consumables, apparatus and sub systems. This license also ensures that the OEMs and customer will purchase *all* their consumables *only* from Trident. This is further supported by page 1 Under "License Grant/Applications/Field of Use ("Licensed products") and also page 9 paragraph 19 of exhibit 3 under "Supply Assurance".

15. The licensing arrangement of Trident very clearly ties the supply of printheads to, the use of its ink and ink supply systems. (refer exhibit 3 paragraph 20 of page 10 under definition of "Licensed Product")

16. Trident by its licensing arrangement as mentioned in exhibit 3 page 9 paragraph 19 under 'supply Assurance" specifies very clearly that the buyer (OEM) *will* purchase ink jet printing devices and *all* of its (buyer's) requirements of Ink and ink supply systems only from Trident.

17. Trident has made it very clear through its licensing agreement that the OEMs cannot purchase any product from other sources including inks (not patented by Trident) and it considers this activity as "unlicensed activity" by the OEMs and their end user customers, consequently voiding warranty. This is supported by paragraph 4, Page 38 of the prospectus (Exhibit 1).

18. As mentioned in page 41, paragraph 3 of exhibit 1,the Licensed OEM customers of Trident are generally asked to assign any interest they obtain in any proprietary rights including inventions and resulting patents and patent applications.

19. Because (as shown in Exhibits 1 and 3) Trident does not allow any other printhead or consumable to be used in conjunction with its Piezoelectric Impulse printing systems, apparatus or sub systems, this limits the OEMs to *always* use Trident printheads and consumables.

20. Independent Ink' s business has suffered as a result of Trident's "Single use only, Do not refill" restriction. We have been told by Tree Top (a food company that uses Trident's patented printheads) that they would not buy our ink because of the possibility of Trident suing them if they refilled the bottles. Exhibit 4 is a copy of the letter forwarded to us by Tree Top to show Tree Top's state of mind regarding its fears.

21. The European Affiliate of Independent Ink, referred to in Elaine Pullen's declaration, sells a container which is the same as that shown in the preferred embodiment in Trident's 226 patent. To the best of my knowledge Trident has no European Patent for this embodiment.

22. As mentioned in Ms. Elaine Pullen's declaration Squid Ink offered two versions of containers. One, very similar to a mustard bottle, allowed the customers to refill Trident bottles *in violation of Trident's license*. The second version, that fits into the Trident reservoir, was launched only a few months ago.

23. A copy of the projected 1999 High Resolution Ink Jet Carton Coding Market shares from CAP ventures (Exhibit 2) was presented at the 1999 IMI conference by Mr. Schoessow, Director of Industrial Marketing and Printing at CAP Ventures. It shows that Trident OEMs, such as Videojet, Marsh; Foxjet; Diagraph; Mathews; Willet, and others, account for well over 92% market share. Markem, a competitor of Trident, has only 1% market share. A substantial percentage of the 7% market share designated "Others" are smaller Trident OEMs including Imaje, Anser, Loveshaw etc. This further supports my understanding of Trident's monopoly in the Hi-Resolution Carton Coding Market.

24. Due to the above facts substantiated by extracts from Trident's Common stock prospectus (Exhibit 1), a PIE Chart from CAP Ventures (Exhibit 2), a copy of Typical OEM agreement (Exhibit 3) and the '226 Patent, it is easy to de-

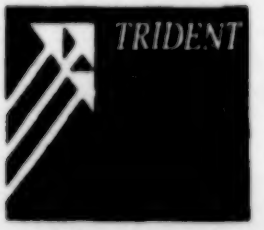
duce that Trident has a 100% market share in the market for Piezoelectric Impulse printheads used for Carton Coding (covered by the '226 Patent) and close to 100% of the market for ink used in Trident's patented containers. Trident's license, if enforced as Trident is attempting, would give it 100% share of the ink market.

25. Large Ink Jet printer manufacturing companies like Hewlett Packard (HP), who sell Patented Ink Jet cartridges do not impose a Single Use License or a Do not refill restriction. In fact the HP Cartridge package is only marked "Intended for Single Use Only". Please see Exhibit 4. Due to the Lack of this restriction a huge Industry for Refilling "used" HP cartridges is thriving and offering the customers the choice to buy refilled cartridges at a much lower cost than a Original cartridge. This choice is denied to owners of Trident printheads.

I declare under penalty of perjury of the laws of the State of California as well as under the laws of the United States of America that the statements contained herein are true and correct

Date: 7-14-2000

/S/ BARRY BRUCKER
Barry Brucker



*P*roviding industrial customers with quality, cost effective ink jet products and consumables for non-contact printing.

The Trident® Ultrajet™ Impulse Ink Jet Imaging subsystem is marketed to OEM customers which provide systems to end-users for printing the text, graphics and bar codes onto blank cartons as they move down the assembly line. These products allow the information to be changed frequently, even carton-by-carton, eliminating the need for preprinted cartons or labels.

The Company intends to furnish its stockholders with annual reports containing financial statements audited by the Company's independent public accountants and quarterly reports for the first three fiscal quarters of each fiscal year containing unaudited interim financial information.

IN CONNECTION WITH THE OFFERING, THE UNDERWRITERS MAY OVER-ALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICE OF THE COMMON STOCK OFFERED HEREBY AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

Trident® impulse ink j imaging solutions for

Subsystems

The Trident® impulse ink jet subsystem is marketed to original equipment manufacturers which incorporate them into specialized equipment for industrial imaging applications. The proprietary subsystem is made up of three basic components: the printhead, located in the foreground; the ink reservoir; and Trident's ink formulations, supplied in bottles that are inserted into the reservoir.

The Ultrajet™ impulse ink jet printhead provide which create images up to 1.9 inches (48mm) w and construction provide industrial end-users with are critical for minimizing production down-time

Consumables

Proprietary inks are among the consumables offered by Trident. Trident s patented ink formulations are used for imaging onto porous and semi-porous surfaces and are available in several colors. These inks are packaged in bottles and in smaller cartridges.

Applications

t subsystems provide
ıe industrial market.

Trident's patented piezoelectric impulse ink jet technology creates micro droplets of ink at frequencies up to 10,000 drops per second from each orifice. These droplets travel across a small gap through the air to form a high resolution image on the printing surface.

Technology

Micro droplets of ink are ejected from orifices smaller than a human hair. Shown in comparison to a penny, Trident's patented multi-orifice design provides increased imaging area without added cost or complexity.

32 individually controllable ink channels
at production line speeds. Its robust design
igh reliability and low maintenance, which
ed operating costs.

Trident's printheads are used in a wide variety of industrial applications which include printing text, graphics and bar codes onto shipping cartons, applying addresses, postal bar codes and cancellation marks to mail pieces, coding checks and plotting garment patterns.

PROSPECTUS SUMMARY

The following summary is qualified in its entirety by the more detailed information and the Financial Statements and Notes thereto appearing elsewhere in this Prospectus. Unless indicated otherwise, the information contained in this Prospectus assumes that the Underwriters' over-allotment options will not be exercised. See "Description of Capital Stock" and "Underwriting."

The Company

The Company designs, manufactures and markets impulse ink jet subsystems, including printheads, inks and other consumables, and related components for the industrial market. The Company's proprietary products are used for a variety of printing applications which require high speed, good print quality, durable equipment and the ability to change the printed text or pattern frequently. The Company's Ultrajet printing subsystems are marketed worldwide, primarily through over 70 original equipment manufacturer ("OEM") customers which integrate them into computer-controlled, application-specific products that are then sold to end-users. The Company's contracts with its OEM customers also provide for ongoing sales by the Company of consumables, consisting principally of inks and printing subsystem components.

The largest application for the Company's products is carton coding, which involves printing directly onto shipping cartons. Carton coding systems which incorporate the Company's products allow end-users to print any combination of high quality text, bar codes, and graphics directly onto blank cartons as they move down an assembly or production line. The Company's products allow this information to be changed frequently, even carton by carton, thereby eliminating the need to maintain a substantial inventory of preprinted cartons or labels, while also reducing production time and costs and allowing for frequent changeover between prod-

ucts. A recent industry estimate by Giga Information Group, formerly BIS Strategic Decisions, predicts that overall end-user demand for impulse ink jet products in the carton coding market will grow from $25 million in 1994 to $140 million in 1999, based on end-user prices. Other current industrial applications for the Company's products include check coding, addressing and business forms imprinting, postal bar coding, stamp cancellation and garment pattern plotting.

The Company's net sales have grown from $6.4 million for the 12 months ended December 31, 1991 to $17.3 million for the twelve months ended September 30, 1995 ("Fiscal 1995"). Over the same period, the Company's operating income has grown from $1.1 million to $4.9 million. In addition, the Company's net sales increased from $3.4 million for the three months ended December 31, 1994 to $6.0 million for the three months ended December 31, 1995. The Company's international net sales have grown from $3.5 million for the twelve months ended September 30, 1994 ("Combined 1994") to $5.2 million for Fiscal 1995. The growth rate in the. Company's international sales during Combined 1994 and Fiscal 1995 has been higher than the Company's overall growth rate. For a description of the Company's 1994 acquisition of its predecessor, see "Certain Transactions — The 1994 Acquisition."

Trident's mission is to be a leading supplier of impulse ink jet printheads, inks and other consumables and related products for industrial applications. The Company's operating strategy is to supply OEM customers with innovative new products that combine the functionality and flexibility of impulse ink jet technology with the durability, speed and print area demanded by end-users. The Company's strategy is to: (i) maximize its opportunity in the carton coding application by expanding its market share and introducing new products; (ii) improve its position in addressing, postal, financial and plotting markets primarily through the introduction of new products; (iii) expand its international sales and

applications support where markets are less developed than in the U.S.; (iv) penetrate new market areas including wide area printing of signs, billboards and fabrics, printing onto parts and primary packages and security printing; and (v) develop or acquire additional proprietary technologies. The Company evaluates potential acquisitions from time to time, including licenses of technology, and believes such transactions may offer an attractive method for the Company to expand its business. However, the Company presently has no pending commitments or understandings to enter into any such transactions. See "Business — Business Strategy."

The Offering

Common Stock offered by the Company	1,900,000 shares
Common Stock offered by the Selling Securityholders	1,100,000 shares (1)
Common Stock to be Outstanding after the Offering	6,951,288 shares(2)
Use of proceeds by the Company	To repay indebtedness, including approximately $15.3 million of indebtedness due to the Selling Securityholders upon consummation of the Offering, and for general corporate purposes, including working capital, capital expenditures and possible acquisitions. See "Use of Proceeds."
Proposed Nasdaq National Market symbol	TRDT

(1) The shares being offered by the Selling Securityholders hereby are being registered for resale by those Selling Securityholders in this Offering only.

(2) Does not include (i) 113,000 shares of Common Stock which were subject to outstanding stock options as of December 31, 1995 at a weighted average exercise price of $3.89 per share, none of which are exercisable prior to August 10, 1996; (ii) 235,192 shares of Common Stock currently issuable upon exercise of a warrant (the "Stockholders' Warrant") held for the benefit of certain holders of the Company's Common Stock at an exercise price of $1.00 per share and (iii) options to purchase up to 30,000 shares of Common Stock at the initial public offering price which the Company anticipates granting to certain employees upon commencement of the Offering, none of which will be exercisable until the first anniversary of the date of this Prospectus. See "Certain Transactions," "Principal and Selling Securityholders," "Capitalization," "Management — Stock Option Plan" and Note 10 of Notes to Consolidated Financial Statements.

Summary Consolidated Financial Information
(in thousands, except share data)

	Predecessor(1)			Pro Forma Combined(2)		The Company	
	For the 12 months ended December 31,		For the 9 months ended September 30,	For the 12 months ended September 30,	For the fiscal year ended September 30,	For the 3 months ended December 31,	
	1991	1992	1993	1994	1995	1994	1995
Consolidated Statement of Operations:							
Net sales	$6,405	$8,251	$7,417	$12,493	$17,330	$3,436	$6,047
Cost of sales	3,204	3,628	3,157	5,853	6,604	1,440	2,347
Gross profit	3,201	4,623	4,260	6,640	10,726	1,996	3,700
Operating expenses							
Marketing and selling	539	668	516	701	912	198	265
Research and development	798	690	625	1,078	1,317	267	447
General and administrative	421	670	587	1,137	1,580	339	533
Amortization of intangibles	375	233	252	486	802	200	200
Amortization of deferred compensation					1,183	295	296
Total operating expenses	2,133	2,261	1,980	3,402	5,794	1,299	1,741
Operating income	1,068	2,362	2,280	3,238	4,932	697	1,959
Interest (income) expense, net	149	16	(10)	482	1,845	464	428
Redeemable warrant interest charge	—	—	—	—	4,561	1,140	1,142
Income (loss) before income taxes	919	2,346	2,290	2,756	(1,474)	(907)	389
Provision for income taxes	234	864	954	1,280	1,965	273	794
Net income (loss)	$ 685	$1,482	$1,336	$1,476	$(3,439)	$(1,180)	$(405)
Pro Forma Data(3):							
Operating income						$6,448	$2,338
Interest income						54	40
Provision for income taxes						(2,880)	(1,020)
Net income						$3,622	$1,358
Net income per common share						$0.50	$0.19
Weighted average common shares						7,250,069	7,257,281

	December 31, 1995	
	Actual	As Adjusted (4)
Consolidated Balance Sheet Data:		
Working capital	$3,654	$19,336
Total assets	24,653	35,203
Total long-term debt	12,052	—

Redeemable common stock warrants	9,703	
Redeemable preferred stock	3,360	
Stockholders' equity (deficit)	(1,979)	33,391

(1) The Predecessor (the "Predecessor") refers to Trident, Inc., the Company's operating subsidiary, prior to its acquisition on June 24, 1994 from Purolon, Inc. ("Purolon"), a wholly-owned subsidiary of Johnson Worldwide Associates, Inc. ("JWA")

(2) The pro forma combined statement of operations data for the 12 months ended September 30, 1994 represents the Predecessor's results from October 1, 1993 through June 23, 1994, and the Company's results from inception (June 24, 1994) through September 30, 1994, and does not purport to represent the results of operations as if Trident International, Inc.'s acquisition of the Predecessor (the "1994 Acquisition") occurred on September 30, 1993. This information is presented to provide more meaningful period to period comparisons. See "selected Consolidated Financial Data" and "Management's Discussion and Analysis of Financial Condition and Results of Operations."

(3) The pro forma data give effect as of September 30, 1994 to (i) the conversion of all of the 307,317 shares of the Company's Series A Convertible Participating Preferred Stock (the "Convertible Preferred Stock") into 3,073,170 shares of Common Stock, (ii) the issuance of 418,118 shares of Common Stock upon the exercise in full of a warrant (the "NationsCredit Warrant") issued to NationsCredit Commercial Corp. ("NationsCredit," formerly Greyrock Capital Group, Inc. and Nations Financial Capital Corporation) in connection with the 1994 Acquisition, (iii) the sale of 1,900,000 shares of Common Stock offered by the Company hereby at the initial public offering price of $10.00 per share, after deducting underwriting discounts and commissions and estimated offering expenses payable by the Company, and the application of the net proceeds therefrom as described under "Use of Proceeds", (iv) the elimination of certain expenses which will terminate upon the consummation of the Offering including (a) the elimination of redeemable warrant interest charges of $4.6 million in Fiscal 1995 and $1.1 million for the three months ended December 31, 1995 relating to the NationsCredit Warrant, (b) the elimination of deferred compensation expense of $1.2 million in Fiscal 1995 and $296,000 for the three months ended December 31, 1995 relating to that portion of the Stockholders' Warrant held by employees and directors of the Company, (c) the elimination of $1.9 million in Fiscal 1995 and $470,000 for the three months ended December 31, 1995 of interest expense and certain deferred financing costs resulting from the repayment of the indebtedness under a credit agreement entered into in connection with the 1994 Acquisition (the "Credit Facility") and the principal amount of zero coupon notes (the "Notes") issued in connection with the 1994 Acquisition, and (d) the elimination of $333,000 in Fiscal 1995 and $83,000 for the three months ended December 31, 1995 of amortization expense relating to a consulting agreement entered into with JWA in connection with the 1994 Acquisition (the "Consulting Agreement"). The pro forma data do not assume that any interest income is earned on the net proceeds from the Offering and should not be considered representative of the Company's actual results of operations for Fiscal 1995, the three months ended December 31, 1995 or its future operating results. See "Pro Forma Condensed Consolidated Financial Statements" for a more complete description of the pro forma events and adjustments.

(4) Adjusted to give effect to (i) the conversion of 307,317 shares of Convertible Preferred Stock into 3,073,170 shares of Common Stock, (ii) the issuance of 418,118 shares of Common Stock upon the exercise in full of the NationsCredit Warrant, and (iii) the sale of 1,900,000 shares of Common Stock offered by the Company hereby at the initial public offering price of $10.00 per share, after deducting underwriting discounts and commissions and estimated offering expenses payable by the Company, and the application of the net proceeds therefrom as described under "Use of Proceeds."

RISK FACTORS

An investment in the shares of Common Stock offered hereby involves a high degree of risk. Prospective investors should carefully consider the following risk factors, in addition to the other information set forth in this Prospectus, in connection with an investment in the shares of Common Stock offered hereby.

Technological Change. The markets for the Company's products are characterized by changing technology, evolving industry standards and changing customer needs. The Company's future success will depend in part on its ability to enhance its current products and to develop new products on a timely and cost-effective basis in order to respond to technological developments and changing customer needs. Any failure by the Company to anticipate or respond adequately to changes in technology and customer preferences, or any significant delay in product developments or introductions, could have a material adverse effect on the Company's financial condition and results of operations. There can be no assurance that the Company will be successful in developing new products or enhancing its existing products on a timely or cost-effective basis, or that such new products or product enhancements will achieve market acceptance. The introduction of new or enhanced products requires that the Company manage the transition from existing products in order to meet changes in customer ordering patterns, manage levels of product inventory and ensure that adequate supplies of new products can be delivered to meet customer demand. New product introductions could contribute to quarterly fluctuations in the Company's operating results as orders for new products commence and orders for existing products decline. New products could also have the effect of decreasing customer demand for the Company's current products. Although the Company historically has not experienced any material adverse impact on its business, financial condition or results of operations attributable to delays in the introduction of new

products, there can be no assurance that delays will not occur in the future or that such delays, if experienced, would not have a material adverse effect on the Company's business, financial condition or results of operations. The Company expects a component of its growth strategy to be the acquisition of new technologies, whether through entering into licensing arrangements, acquiring businesses owning desirable technology, or otherwise. There can be no assurance that the Company's investments in new technologies will lead to the successful development of new products, or that any such new products, if developed, will achieve market acceptance or prove to be profitable. See "Business — Engineering, Research and Development and Intellectual Property."

Competition. The industrial printing industry is highly competitive and the Company believes it will need to continue to develop new products and applications in order to remain competitive. Several of the Company's competitors are larger and have greater financial, research and development, marketing and other resources than the Company. In addition, the Company may face additional competition from other companies in the future, particularly from manufacturers of computer printers for the office and home markets and other developers of impulse ink jet technologies. No assurance can be given that the Company will be able to compete successfully against current or future competitors or that the competitive pressures faced by the Company will not adversely affect its results of operations. Recently, the Company became aware that manufacturers of certain ink products are claiming that their inks could be utilized with certain of the Company's impulse ink jet printheads. Although the use of such other inks will void the Company's warranties on its printheads, and could, in the Company's judgment, result in inferior performance and permanent damage to its printheads, there can be no assurance that the introduction and sale of such other inks will not have a material adverse effect on the Company's financial condition or re-

sults of operations. Moreover, the Company is in the process of developing new printhead products which will be capable of using a broader range of inks, including inks not sold by the Company. The introduction of any such products could increase competition for sales of ink products to the Company's customers. Approximately 33.0% of the Company's total net sales during the twelve months ended December 31, 1995 resulted from sales of ink products. The Company is aware that Nu-Kote Holding, Inc. ("Nu-Kote") has acquired a new ink jet technology and intends to produce a low cost impulse ink jet printhead for both office and industrial applications. If Nu-Kote is successful in the future in penetrating any of the Company's target markets, such penetration could have a material adverse effect on the Company's business, financial condition and results of operations. The Company is not aware of any other announcements by competitors expected to have a material adverse effect on the Company's business, financial condition or results of operations. See "Business — Business Strategy" and "— Competition."

Dependence on Key Suppliers. The Company's ability to produce and ship its products on schedule is highly dependent on timely receipt of an adequate supply of components and materials from its key vendors. The Company currently relies on single suppliers for some of its key products and components. In particular, the Company is required to obtain substantially all of its ink products from Micropore, Inc. ("Micropore") pursuant to a certain supply agreement. Micropore purchased the ink manufacturing business of Porelon, the former parent of the Company's operating subsidiary, in May 1994 at which time the Company and Micropore entered into the supply agreement. There can be no assurance that the Company's supply of inks from Micropore will not be interrupted, or that if such supply were interrupted, the Company could find another supplier on a timely or satisfactory basis. Any disruption or termination of supplies from Micropore could have a material adverse effect on

the Company's business, financial condition and results of operations. In addition, the Company currently obtains all of the stainless steel orifice plates, which are key components in some of the Company's printhead products, from a small, privately-held company. The Company currently purchases these orifice plates pursuant to purchase orders and has no long-term supply agreement with respect to such purchases. Small, privately-held companies like this supplier may be more likely to experience financial or operating difficulties than larger, more established companies. Any disruption or termination of supplies of these stainless steel orifice plates, whether due to financial problems experienced by this supplier or otherwise, could have a material adverse effect on the Company's business and results of operations.

The Company could incur set-up costs and delays in manufacturing should it become necessary to replace any key vendors due to work stoppages, shipping delays, financial difficulties or other factors and, under certain circumstances, these costs and delays could have a material adverse effect on the Company's business, financial condition and results of operations. See "Business — Manufacturing and Suppliers."

Dependence on Sales by Third Parties. The Company's net sales are dependent upon the ability of its OEM customers to develop and sell products that incorporate the Company's impulse ink jet products. Factors such as economic conditions, inventory positions, limited marketing resources and other factors affecting these OEM customers could have a substantial impact upon the Company's financial results. No assurances can be given that the Company's OEM customers will not experience financial or other difficulties that could adversely affect their operations and, in turn, the results of operations of the Company. In addition, the Company must design its products to conform to the requirements of its OEM customers. This "design in" process is typically lengthy and expensive and there can be no assurance that the Company will be able to continue to meet the product speci-

fications of its OEM customers in a timely and adequate manner. See "Business — Sales and Marketing" and "— Customers."

Significant Customers. In Fiscal 1995, approximately 72% of the Company's net sales were to its top ten OEM customers, while approximately 23% and 11% of the Company's net sales in Fiscal 1995 were to two OEM customers, Marsh Company ("Marsh") and Foxjet, Inc. ("Foxjet"), respectively. For the three months ended December 31, 1995, approximately 80% of the Company's net sales were to its top ten OEM customers, and approximately 25% and 12% were to Marsh and Foxjet, respectively. A significant diminution in the sales to or loss of any of the Company's major customers would have a material adverse effect on the Company's results of operations. See "Business — Customers."

Concentration of Net Sales from Carton Coding. For Fiscal 1995 and the three months ended December 31, 1995, approximately 67% and 71%, respectively, of the Company's net sales were derived from carton coding and the Company anticipates that carton coding will continue to account for a substantial portion of the Company's total net sales. A reduction in demand for carton coding systems would have a material adverse effect on the Company's business, results of operations and financial condition. See "Business — Current Industry Applications."

Dependence on Patents and Proprietary Technology. The industrial printing industry places considerable importance on obtaining patent and trade secret protection for new technologies, products and processes, and the Company's success will depend, in part, on its ability to obtain and maintain patent protection for its products and manufacturing processes, preserve its trade secrets and operate without infringing the proprietary rights of third parties. In addition to the Company's own patent applications, the Company has an exclusive license from Dataproducts Corporation ("Datapro-

ducts") to Dataproducts' rights in certain patents relating to liquid inks and impulse ink jet printing (the "Dataproducts License") within the "industrial marking field" (as defined in the Dataproducts License). The technology used by the Company under the Dataproducts License is integral to the Company's impulse ink jet products. Several of the patents relating to this technology expire over the next six to nine years. Following such expiration, protection of the technology relating to such patents will be limited to the protections afforded by trade secret law, the Company's confidentiality agreements with employees, suppliers and customers, and the difficulty of reproducing the Company's complex processes.

The Company is conducting research and expects to seek additional patents in the future, but there can be no assurance as to its success or the timeliness in obtaining any such patents or as to the breadth or degree of protection which any such patents will afford the Company. The patent position of developers and manufacturers of ink jet technologies is often highly uncertain and usually involves complex legal and factual questions. There can be no assurance that patent applications relating to the Company's products or technology will result in patents being issued or that any such issued patents or the Company's agreements with its licensees or licensors will afford adequate protection to the Company or not be challenged as unenforceable or invalid, or not be infringed. Moreover, the Company could incur substantial costs in defending itself in suits brought against it or in prosecuting suits in which the Company may assert its patents or other proprietary rights against others. If the outcome of any such litigation is adverse to the Company, the Company's business, financial condition and results of operations could be adversely affected.

The Company also seeks to protect its proprietary technology, including technology which may not be patented nor patentable, in part by confidentiality agreements and, if applicable, inventors' rights agreements with its collaborators,

advisors, employees and consultants. There can be no assurance that these agreements will not be breached, that the Company will have adequate remedies for any breach, or that the Company's trade secrets will not otherwise be disclosed to, or discovered by, competitors. In addition, the Company may in the future be required to obtain licenses to patents or other proprietary rights of third parties. No assurance can be given that any licenses required under any such patents or proprietary rights would be made available on terms acceptable to the Company, if at all. If the Company does not obtain such licenses, it could encounter delays in product introductions while it attempts to design around such patents or other rights, or be unable to develop, manufacture or sell such products. See "Business — Engineering, Research and Development and Intellectual Property."

Dependence on Key Personnel. The Company's future success depends in large part on the continued service of its senior management and other key employees. The Company believes that the loss of its Chief Executive Officer or certain key personnel in its research and development department could have a material adverse effect on the Company's business, financial condition and results of operations. The Company is also dependent on its ability to continue to attract and retain additional qualified employees, particularly design, process and test engineers involved in the manufacture of existing products and the development of new products and processes. The competition for such skilled personnel is intense and the loss of key employees could have a material adverse effect on the Company's results of operations. The Company has historically had difficulty in attracting engineers and other qualified technical personnel in sufficient numbers to meet its target personnel levels. Although the Company's results of operations have not been materially and adversely affected by the difficulty in attracting such personnel, there can be no assurance that such difficulty will not materially and adversely affect the Company's results of

operations in the future. See "Business —Employees" and "Management."

Fluctuation in Revenues and Results of Operations. The Company's annual and quarterly operating results may fluctuate due to factors such as the timing of new product announcements and introductions by the Company and its competitors, market acceptance of new or enhanced versions of the Company's products, changes in product mix, changes in manufacturing costs or other expenses, competitive pricing pressures, the gain or loss of significant customers, increased research and development expenses and general economic conditions. In addition, it is possible that in some future periods the Company's results of operations, including gross margins, will be below the expectations of public market analysts and investors. In any such event, the market price of the Common Stock could be materially and adversely affected. The Company does not believe there is any significant seasonality in its net sales. See "Management's Discussion and Analysis of Financial Condition and Results of Operations."

Certain Charges to be Incurred through Consummation of the Offering and Negative Stockholders' Equity. The Company anticipates incurring certain significant charges relating to the 1994 Acquisition from the beginning of fiscal year 1996 through the consummation of the Offering. Based upon a closing date of March 1, 1996 and the initial public offering price of $16 per share, the Company anticipates such charges to be an aggregate of $4.2 million, net of related income tax benefits, comprised of $2.1 million of recurring charges which will have been expensed through consummation of the Offering and will not recur thereafter and $2.1 million of non-recurring charges which will be expensed at the closing of the Offering.

Certain non-cash charges being eliminated in connection with the Offering are recurring charges related to the 1994 Acquisition and are expected to continue to be incurred dur-

ing fiscal year 1996 through the time the Offering is consummated. These fiscal year 1996 non-cash recurring charges consist principally of (i) $1.7 million of interest charges related to the NationsCredit Warrant and (ii) $443,000 of deferred compensation expense related to the Stockholders' Warrant. Subsequent to the closing of the Offering, no further charges to earnings will be incurred related to these items.

At the time of the Offering, the Company anticipates repaying the outstanding principal balance on the Credit Facility and repaying the Notes out of the net proceeds of the Offering. As a result, the Company anticipates that it will incur non-recurring charges to earnings for approximately $2.2 million of unamortized original issue discount relating to the Notes and approximately $907,000 of unamortized financing costs relating to the Credit Facility and the Notes. The Company also anticipates recognizing a charge of approximately $452,000, representing the unamortized portion of the cost of the Consulting Agreement as of the Offering date, which will be terminated at the time of the Offering. See "Management's Discussion and Analysis of Financial Condition and Results of Operations — Overview." Collectively, these items will result in non-recurring charges to earnings of approximately $2.1 million, net of related income tax benefits, at the time the Offering is consummated.

Charges to earnings, net of related income tax benefits, related to all of the matters described above were approximately $1.4 million during the first quarter of fiscal year 1996 (consisting of the quarterly portion of the recurring charges described above) and are expected to be approximately $2.8 million during the second quarter of fiscal year 1996 (consisting of the pro rata quarterly portion of the recurring charges, as well as the non-recurring charges which will be incurred upon consummation of the Offering as described above). See "Certain Transactions."

At December 31, 1995, the Company had negative stockholders' equity of approximately $2.0 million.

Risks Related to Potential Environmental Liability. The Company is subject to a wide range of federal and state laws and regulations relating to the environment. These laws generally regulate use of hazardous substances and the release of pollutants into the environment, may impose penalties for non-compliance and require responsible parties to undertake remediation of hazardous waste disposal sites. Although the Company believes it is in material compliance with all applicable environmental laws, there can be no assurance that all of the Company's operations comply in all respects with all such laws. The site of one of the Company's leased facilities was contaminated and may require remedial action. The United States Environmental Protection Agency has informed the Company that it will likely not address the premises under federal authority and that Connecticut regulations will govern the determination of whether remedial response actions are necessary. As of December 1995, the Connecticut Department of Environmental Protection had requested further information about the site conditions, which the Company provided. Since that time and through the date of this Prospectus, the Connecticut Department of Environmental Protection has not requested any additional information from the Company or indicated that any remedial response actions are required There can be no assurance, however, that such requests or indications will not be made in the future. The Company obtained an indemnification agreement in connection with the 1994 Acquisition with respect to costs and liabilities in excess of $350,000 related to such contamination up to a maximum of $4.0 million prior to June 24, 1996, and a maximum of $2.0 million thereafter. If the Company is found to be liable as a result of any such prior contamination at the site, there can be no assurance that such indemnification will be available or that, if available, it will be sufficient. See "Business — Facilities."

Control by Certain Stockholders. Upon completion of the Offering, the executive officers and directors of the Company and the current holders of the Company's capital stock will collectively own or control approximately 59.7% of the outstanding shares of Common Stock (approximately 53.2% if the Underwriters' over-allotment options are exercised in full). Accordingly, these persons will have the ability to control the Company's Board of Directors and, therefore, the business, policies and affairs of the Company. See "Principal and Selling Securityholders" and "Description of Capital Stock."

Risks Associated With International Operations. The Company markets and sells its products in certain international markets. For Fiscal 1995, approximately 20% and 10% of the Company's net sales were from Europe and the Far East, respectively. For the three months ended December 31, 1995, approximately 24% and 9% of the Company's net sales were from Europe and the Far East, respectively. The Company has established an office in Dublin, Ireland to support the European market and anticipates the opening of new offices in other international markets, such as the Far East. If net sales generated by foreign activities are not adequate to offset the expense of establishing and maintaining these foreign activities, the Company's business, financial condition and results of operations could be materially adversely affected. In addition, there are certain risks inherent in doing business internationally, such as changes in applicable laws and regulatory requirements, export and import restrictions, export controls relating to technology, tariffs and other trade barriers, less favorable intellectual property laws, difficulties in staffing and managing foreign operations, longer payment cycles, problems in collecting accounts receivable, political instability, fluctuations in currency exchange rates, expatriation controls and potential adverse tax consequences, which could adversely impact the success of the Company's international activities. There can be no assurance that one or

more of such factors will not have a material adverse effect on the Company's future international activities and, consequently, on the Company's business, financial condition and results of operations. See "Business — Business Strategy."

Anti-Takeover Effects of Certain Charter and By-law Provisions. The Company's Certificate of Incorporation (the "Certificate") and By-laws (the "By-laws") contain certain provisions relating to corporate governance and to the rights of shareholders. These provisions may be deemed to have a potential "anti-takeover" effect in that such provisions may delay, defer or prevent a change in control of the Company. The Certificate provides for the Board of Directors to be divided into two classes of directors serving staggered two-year terms. As a result, approximately one-half of the Board of Directors will be elected each year. In addition, the Certificate provides that shareholders may remove a director only for cause and only by the vote of the holders of two-thirds of the Common Stock of the Company. This provision, when coupled with the provision of the Certificate authorizing only the Board of Directors to fill vacant directorships, will preclude shareholders from removing incumbent directors without cause and simultaneously gaining control of the Board of Directors by filling the vacancies created by such removal with their own nominees, and will make more difficult, and therefore may discourage, a proxy contest to change control of the Company. These provisions of the Certificate may be changed only by the affirmative vote of the holders of eighty percent of the Common Stock of the Company entitled to vote on such matters at a meeting duly called for such purpose. The Certificate also provides that shareholder actions may not be taken by written consents.

The By-laws provide that special meetings of shareholders of the Company may be called only by the Board of Directors or, subject to certain notice and informational requirements, holders of 25% or more of the Company's outstanding Common Stock. The By-laws also provide that

shareholders seeking to bring business before an annual or special meeting of shareholders, or to nominate candidates for election as directors at an annual or special meeting of shareholders, must provide prior written notice thereof, as set forth in the By-laws. The By-laws may only be amended by the shareholders by the affirmative vote of at least two-thirds of the votes eligible to be cast, unless the Board of Directors has approved such amendment, in which case the affirmative vote of at least a majority of the votes eligible to be cast is required.

No Prior Market for Common Stock; Possible Volatility of Stock Price. Prior to the Offering, there has been no public market for the Common Stock, and there can be no assurance that an active trading market will develop or be sustained in the future or that the market price of the Common Stock will not decline below the initial public offering price. The initial public offering price of the Common Stock was determined by negotiations between the Company and the representatives of the Underwriters and may not be indicative of the market price of the Common Stock after the Offering. See "Underwriting" for a discussion of the factors to be considered in determining the initial public offering price. From time to time after the Offering, there may be significant volatility in the market price for the Common Stock. Quarterly and annual operating results of the Company, changes in general conditions in the economy, the financial markets, or the ink jet printing industry, or other developments affecting the Company or its competitors, could cause the market price of the Common Stock to fluctuate substantially. In addition, in recent years the stock market has experienced significant price and volume fluctuations. This volatility has affected the market prices of securities issued by many companies for reasons unrelated to their operating performance.

Shares Eligible for Future Sale; Registration Rights. Upon completion of the Offering, the Company will have a

total of 6,951,288 shares of Common Stock outstanding. Of these shares, the 3,000,000 shares of Common Stock offered hereby (3,450,000 shares if the Underwriters' over-allotment options are exercised in full) will be freely tradable without restriction or registration under the Securities Act of 1933, as amended (the "Securities Act") by persons other than "affiliates" of the Company, as defined in the Securities Act. The remaining 3,951,288 shares of Common Stock outstanding (3,501,288 shares if the Underwriters' over-allotment options are exercised in full) will be "restricted securities" as that term is defined by Rule 144 promulgated under the Securities Act ("Rule 144"). These restricted securities (the "Restricted Securities") were issued and sold by the Company in private transactions in reliance upon exemptions from registration under the Securities Act.

In general, under Rule 144 as currently in effect, a person (or persons whose shares are aggregated) who has beneficially owned restricted securities for at least two years, including persons who may be deemed "affiliates" of the Company, would be entitled to sell within any three-month period a number of shares that does not exceed the greater of one percent of the number of shares of Common Stock then outstanding (approximately 69,513 shares upon completion of the Offering) or the average weekly trading volume of the Common Stock during the four calendar weeks preceding the filing of a Form 144 with respect to such sale. Sales under Rule 144 are also subject to certain manner of sale provisions and notice requirements, and to the availability of current public information about the Company. In addition, a person who is not deemed to have been an affiliate of the Company at any time during the 90 days preceding a sale, and who has beneficially owned the shares proposed to be sold for at least three years, would be entitled to sell such shares under Rule 144(k) without regard to the requirements described above.

Under Rule 144 (and subject to the conditions thereof), no Restricted Securities will become eligible for sale upon

completion of the Offering. The Company's executive officers and directors, the Selling Securityholders and the other current stockholders of the Company (who in the aggregate will hold all of the Restricted Securities upon completion of the Offering) have agreed that they will not, directly or indirectly, offer, sell, offer to sell, contract to sell, pledge, grant any option to purchase or otherwise sell or dispose (or announce any offer, sale, offer of sale, contract of sale, pledge, grant of any options to purchase or sale or disposition) of any shares of Common Stock or other capital stock of the Company, or any securities convertible into, or exercisable or exchangeable for, any shares of Common Stock or other capital stock of the Company without the prior written consent of Prudential Securities Incorporated, on behalf of the Underwriters, for a period of 180 days from the date of this Prospectus. In addition, various holders of Common Stock have demand and "piggy back" registration rights to require the Company to file one or more registration statements to effect the registration under the Securities Act of the shares of Common Stock held by such holders, which would permit such holders to resell such shares without complying with Rule 144. Registration and sale of such shares could have an adverse effect on the trading price of the Common Stock. See "Underwriting" and "Certain Transactions."

Prior to the Offering, there has been no public market for the Common Stock and no predictions can be made of the effect, if any, that the sale or availability for sale of shares of additional Common Stock will have on the market price of the Common Stock. Nevertheless, sales of substantial amounts of such shares in the public market, or the perception that such sales could occur, could materially and adversely affect the market price of the Common Stock and could impair the Company's future ability to raise capital through an offering of its equity securities. See "Shares Eligible for Future Sale."

Dilution. Purchasers of the shares of Common Stock offered hereby will experience immediate and substantial dilution in the pro forma net tangible book value per share of the Common Stock of $13.09 from the initial public offering price of $16.00 per share, and may incur additional substantial dilution upon the exercise of outstanding stock options and warrants by holders thereof. See "Dilution."

THE COMPANY

The Company designs, manufactures and markets impulse ink jet subsystems, including printheads, inks and other consumables and related components for the industrial market. The Company's proprietary products are used for a variety of printing applications which require high speed, good print quality, durable equipment and the ability to change the printed text or pattern frequently. The Company's Ultrajet printing subsystems are marketed worldwide, primarily through over 70 OEM customers which integrate them into computer-controlled, application-specific products that are then sold to end-users. The Company's contracts with its OEM customers also provide for ongoing sales by the Company of consumables, consisting principally of inks and printing system components, to the end-users.

The Predecessor was founded in 1989 as Trident, Inc. Shortly after its incorporation, a majority interest in the Predecessor was purchased by JWA through JWA's direct subsidiary, Porelon. In December 1992, Porelon purchased the remaining minority interests in the Predecessor and the Predecessor became a wholly-owned subsidiary of Porelon.

On June 24, 1994, the Company acquired all of the capital stock of the Predecessor for $19.9 million in the 1994 Acquisition. Of this amount, approximately $4.6 million was attributable to tangible assets, approximately $13.9 million represented the excess of the purchase price over the fair value of net assets acquired and approximately $1.4 million was attributable to other intangible assets. The 1994 Acquisi-

tion and related transaction costs of approximately $1.7 million were funded through (i) $14.6 million in senior secured indebtedness from NationsCredit, (ii) $1.9 million in proceeds from the issuance of an aggregate of $5.0 million in principal amount of the Notes to investment funds associated with TA Associates, Inc., a private equity firm based in Boston, Massachusetts (the "TA Investors") and to Chestnut III Limited Partnership and Chestnut Capital International III L.P. (collectively with Chestnut III Limited Partnership, the "Chestnut Investors"), (iii) $3.1 million of Convertible Preferred Stock issued to the TA Investors and the Chestnut Investors and (iv) $1.5 million of Common Stock issued to (A) certain individuals and entities associated with Brean Murray, Foster Securities, Inc., (the "Brean Murray Investors"), (B) certain other associated individuals and entities (the "West Point Investors") and (C) certain members of the Company's management (the "Management Investors"). See "Certain Transactions — The 1994 Acquisition."

In connection with the financing of the 1994 Acquisition, the NationsCredit Warrant was issued to NationsCredit to purchase up to 653,310 shares of Common Stock, subject to reduction to 418,118 shares, at an exercise price of $1.00 per share. Concurrently, the Brean Murray Investors, the West Point Investors and the Management Investors were issued the Stockholders' Warrant to purchase up to the number of shares of Common Stock, if any, by which the NationsCredit Warrant is reduced. In connection with the Offering, the Company anticipates that the NationsCredit Warrant will be reduced to 418,118 shares of Common Stock and that such shares will be sold in the Offering. Accordingly, the Stockholders' Warrant will become exercisable for 235,192 shares of Common Stock upon consummation of the Offering.

As used herein, unless the context requires otherwise, the term "Company" includes Trident International, Inc., and all of its subsidiaries. In January 1996, the Company changed its

name from Trident Holding Corp. to Trident International, Inc. Trident®, Ultrajet™, JetWrite™, HiDef™, VersaPrint™, FastDri™, Post-Brite™, AllWrite™, as well as the Company logos, are trademarks of the Company. This Prospectus also contains trademarks of companies other than Trident International, Inc. The Company's executive offices are located at 1114 Federal Road, Brookfield, Connecticut 06804, and its telephone number is (203) 740-9333.

USE OF PROCEEDS

The net proceeds to the Company from the sale of the 1,900,000 shares of Common Stock offered by the Company hereby, at the initial public offering price of $16.00 per share, after deducting underwriting discounts and commissions and estimated offering expenses payable by the Company, are estimated to be approximately $27.5 million.

The Company intends to use approximately $10.8 million of the net proceeds from the Offering to repay in full the outstanding indebtedness under the Credit Facility. The Credit Facility is comprised of two loans evidenced by two notes. The first note, in the original principal amount of $10.5 million, matures on July 1, 2001 and bears interest at a floating rate which was 10.36% per annum at December 31, 1995. At December 31, 1995, $9.4 million was outstanding on the first note. The second note, in the original principal amount of $3.0 million, matures (depending upon the prepayment of the first note) no later than July 1, 2001, and bears interest at a floating rate which was 12.36% per annum at December 31, 1995. At December 31, 1995, $3.0 million was outstanding on the second note. The Company intends to pay an aggregate of approximately $1.7 million under the Credit Facility between January 1, 1996 and the consummation of the Offering. The Credit Facility is required to be paid in full upon consummation of the Offering, and will terminate upon such payment. In addition, approximately $4.5 million of the net proceeds from the Offering will be used to retire all of the

$5.0 million in principal amount of the Notes issued by the Company for $1.9 million in connection with the 1994 Acquisition at 90% of their maturity value. The Notes, which are held by certain of the Selling Securityholders, were issued with an original issue discount of $3.1 million, bear an effective yield to maturity of 11.6% and mature on September 30, 2002. The Notes are also required to be paid in full by the Company upon consummation of the Offering.

The Company expects to use the remaining net proceeds from the Offering for general corporate purposes, including possible acquisitions, such as the purchase or license of new technologies, working capital, purchase of equipment and expansion of facilities, The Company evaluates potential acquisitions from time to time and believes such transactions may offer an attractive method for the Company to expand its business. However, the Company presently has no pending commitments or understandings to enter into any such transactions. Pending application of the net proceeds from the Offering for the foregoing purposes, the Company intends to invest the net proceeds in short-term, interest-bearing securities and cash equivalents.

The Company will not receive any proceeds from the sale of Common Stock by the Selling Securityholders, including the Common Stock underlying the NationsCredit Warrant, except that the Company will receive the $418,118 exercise price upon exercise of the NationsCredit Warrant. See "Principal and Selling Securityholders" and "Certain Transactions."

DIVIDEND POLICY

The Company has never declared or paid cash dividends on its Common Stock. The Company currently intends to retain its earnings for future growth and, therefore, does not anticipate declaring or paying any cash dividends in the foreseeable future.

CAPITALIZATION

The following table sets forth the historical capitalization of the Company at December 31, 1995 and as adjusted to give effect to (i) the conversion of all of the 307,317 shares of Convertible Preferred Stock into 3,073,170 shares of Common Stock, (ii) the issuance of 418,118 shares of Common Stock upon the exercise in full of the NationsCredit Warrant at $1.00 per share, and (iii) the receipt and application by the Company of the estimated net proceeds from the sale of 1,900,000 shares of Common Stock offered by the Company hereby at the initial public offering price of $16.00 per share, after deducting underwriting discounts and commissions and estimated offering expenses.

	December 31, 1995	
	Actual	Pro Forma As Adjusted
	(in thousands)	
Debt		
Short-term	$ 2,683	$ -
Long-term	12,052	--
Total debt	14,735	
Redeemable common stock warrants	5,703	
Series A convertible participating preferred stock, $.01 par value, 307,317 shares authorized, issued and outstanding at December 31, 1995, no shares authorized, issued and outstanding pro forma as adjusted	3,360	
Stockholders' equity[1]		
Preferred stock, $.01 par value, no shares authorized at December 31, 1995, 5,000,000 shares authorized and no shares issued and outstanding pro forma as adjusted		
Common stock, $.01 par value, 7,000,000 shares authorized, 1,560,000 shares issued and outstanding at December 31, 1995, 30,000,000 shares authorized, 6,951,288 shares issued and outstanding pro forma as adjusted	16	69
Additional paid-in capital	2,786	39,735
Deferred compensation	(147)	
Deferred offering costs[2]	(509)	
Retained earnings (deficit)	(4,125)	(6,414)
Total stockholders' equity	(1,979)	33,391
Total capitalization	$21,819	$33,391

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(1) Does not include (i) 113,000 shares of Common Stock issuable upon exercise of stock options outstanding under the Company's Amended and Restated 1994 Stock Option and Grant Plan (the "1994 Stock Option Plan") as of December 31, 1995 or (ii) 215,192 shares of Common Stock currently issuable upon exercise of the Stockholders' Warrant. See "Certain Transactions."

(2) As of December 31, 1995, the Company had incurred approximately $509,000 of costs in connection with the Offering. These costs have been charged to deferred offering costs and recorded as a reduction of stockholders' equity in the consolidated balance sheets contained elsewhere in this Prospectus.

DILUTION

Purchasers of the Common Stock offered hereby will experience immediate and substantial dilution in the net tangible equity per share of Common Stock. The pro forma net tangible equity (deficit) of the Company as of December 31, 1995 was approximately ($7.1 million) or ($1.40) per share of Common Stock. "Pro forma net tangible equity (deficit) per share" represents the amount of total tangible assets less total liabilities divided by the number of shares of Common Stock outstanding, as adjusted to give effect as of December 31, 1995 to (i) the issuance of 3,073,170 shares of Common Stock upon the conversion of all outstanding shares of the Convertible Preferred Stock and (ii) the issuance of 418,118 shares of Common Stock upon the exercise in full of the NationsCredit Warrant. After giving effect to the receipt by the Company of the net proceeds from the sale of the 1,900,000 shares of Common Stock offered by the Company hereby (based upon the initial public offering price of $16.00 per share and after deducting underwriting discounts and commissions and estimated offering expenses payable by the Company) and after the recognition of certain charges relating to the Offering, the pro forma net tangible book value of the Company after the Offering as of December 31, 1995 would have been approximately $20.2 million or $2.91 per share. This represents an immediate increase in pro forma net tangible book value of $4.31 per share to existing stockholders and an immediate dilution of $13.09 per share to new investors. The following table illustrates this per share dilution:

Initial public offering price per share		$16.00
Pro forma net tangible equity (deficit) per share before the Offering	$(1.40)	
Increase per share attributable to new investors	4.31	
Pro forma net tangible equity per share after the Offering		2.91
Dilution per share to new investors		$13.09

The following table summarizes on a pro forma basis, as of December 31, 1995, the differences between existing

stockholders and purchasers of shares in the Offering (at the initial public offering price of $16.00 per share) with respect to the number of shares of Common Stock purchased from the Company, the total consideration paid and the average price per share paid:

	Shares Purchased		Total Consideration		Average Price Per Share
	Number	Percent	Amount	Percent	
Existing stockholders(1)	3,951,288	72.7%	$ 3,951,288	14.2%	$ 1.00
New investors(1)	3,000,000	27.3	30,000,000	85.8	16.00
Total	6,951,288	100.0%	$33,951,288	100.0%	

(1) On a pro forma basis as of December 31, 1995, sales by Selling Securityholders in the Offering will reduce the number of shares held by existing stockholders to 3,951,288 or approximately 56.8% of the total outstanding shares (3,501,288 shares or approximately 50.4% of the total outstanding shares if the Underwriters' over-allotment options are exercised in full) and will increase the number of shares held by new investors to 3,000,000 or approximately 43.2% of the total outstanding shares (3,450,000 shares or approximately 49.6% of the total outstanding shares if the Underwriters' over-allotment options are exercised in full) after the Offering.

The foregoing computations assume no exercise of outstanding stock options after December 31, 1995 and no exercise of the Stockholders' Warrant after that date. As of December 31, 1995, 113,000 shares of Common Stock were subject to outstanding options under the 1994 Stock Option Plan at a weighted average exercise price of approximately $3.89 per share and 235,192 shares of Common Stock will be issuable upon consummation of the Offering at an exercise price of $1.00 per share under the Stockholders' Warrant. In the event that these options and the Stockholders' Warrant are exercised, the pro forma net tangible equity per share after the Offering will be $2.87 and dilution per share to new investors in the Offering will be $13.13. The Company anticipates granting options to purchase up to an aggregate of 30,000 shares of Common Stock to certain employees upon commencement of the Offering. Accordingly, options for an additional 857,000 shares of Common Stock will be available for issuance under the 1994 Stock Option Plan upon consummation of the Offering. See "Capitalization," "Management — Stock Option Plan," "Description of Capital Stock" and Note 10 of Notes to Consolidated Financial Statements.

SELECTED CONSOLIDATED FINANCIAL DATA

The following selected consolidated financial data have been derived from the consolidated financial statements of the Company and its Predecessor. The financial statements of the Predecessor as of and for the periods ended September 30, 1993 at June 23, 1994 and the consolidated financial statements of the Company as of and for the periods ended September 30, 1994 and 1995 have been audited by Arthur Andersen LLP, independent public accountants. The information as of and for the periods ended December 31, 1991 and 1992 and as of December 31, 1995 and for the three months ended December 31. 1994 and 1995 have been derived from unaudited financial statements of the Company which have been prepared on the same basis as the audits financial statements and which, in the opinion of management, include all adjustments (consisting of normal recurring adjustments) necessary for a fair presentation of such data. The results of operations for the three months ended December 31, 1995 are not necessarily indicative of the results for the full year. The combined statement of operations data for 1994 combines the audited results of operations of the Predecessor for the period from October 1, 1993 to June 23, 1994 and of the Company for the period from June 24, 1994 to September 30, 1994 and does not purport to represent the results of operations as if the 199[ ] Acquisition occurred on September 30, 1993. The financial data set forth below should be read in conjunction with "Management's Discussion and Analysts of Financial Condition and Results of Operations," the consolidated financial statements of the Company and notes thereto.

	Predecessor			Company	Pro Forma Combined(1)	Company	
	For the 12 months ended December 31,	For the 9 months ended Sept. 30,	For the period from Oct. 1, 1993 to June 23, 1994	For the period from June 24, 1994 to Sept. 30, 1994	For the 12 months ended Sept. 30, 1994	For the first year ended Sept. 30, 1995	Three months ended December 31
	1991	1992	1993				1994	1995
	(In thousands, except share data)							
Consolidated Statement of Operations Data:								
Net sales	$6,405	$8,251	$7,617	$8,792	$3,701	$12,493	$17,330	$ 3,436	$ 6,6
Cost of sales	3,204	3,628	3,157	4,008	1,845	5,853	6,504	1,440	2,3
Gross profit	3,201	4,623	4,460	4,784	1,856	6,640	10,726	1,996	3,3
Operating expenses:									
Marketing and selling	539	668	516	512	189	701	912	198	2
Research and development	798	890	623	747	331	1,078	2,317	267	4
General and administrative	421	670	587	763	374	1,137	1,580	339	5
Amortization of intangibles	375	233	252	267	219	486	802	200	2
Amortization of deferred compensation	—	—	—	—	—	—	1,183	295	2
Total operating expenses	2,133	2,261	1,940	2,289	1,113	3,402	3,794	1,299	1,3
Operating income	1,068	2,362	2,280	2,495	743	3,238	4,932	697	1,9
Interest (income) expense, net	149	16	(10)	(8)	690	682	1,845	464	4
Redeemable warrant interest charge	—	—	—	—	—	—	4,561	1,140	1,1
Income (loss) before income taxes	919	2,346	2,290	2,503	253	2,756	(1,474)	(907)	3
Provision for income taxes	234	864	954	1,033	247	1,280	1,965	273	7
Net income (loss)	$ 685	$1,482	$1,336	$1,470	$ 6	$ 1,476	$(3,439)	$(1,180)	$ (4
Pro Forma Data:(2)									
Operating income							$ 6,648		$ 2,3
Interest income							54		
Provision for income taxes							(2,880)		(1,0
Net income							$ 3,822		$ 1,3
Net income per common share							$ 0.50		$ 0.1
Weighted average common shares							7,250,869		7,257,2

	Predecessor			Company		
	December 31,		September 30,	September 30,		December 31,
	1991	1992	1993	1994	1995	1995
	(In thousands)					
Consolidated Balance Sheet Data:						
Working capital	$ 609	$ 2,300	$ 1,949	$ 2,103	$ 3,232	$ 3,634
Total assets	4,145	11,875	11,736	28,967	23,133	24,653
Total long-term debt	1,500	—	—	14,738	12,361	12,052
Redeemable common stock warrants	—	—	—	—	4,361	5,703
Redeemable preferred stock	—	—	—	3,123	3,311	3,360
Stockholders' equity (deficit)	809	10,611	10,389	1,972	(1,311)	(1,979)

(1) The pro forma combined statement of operations data for the 12 months ended September 30, 1994, represents the Predecessor's results from October 1, 199 through June 23, 1994, and the Company's results from inception (June 24, 1994) through September 30, 1994. This information is presented to provide mea meaningful period to period comparisons and does not purport to represent the results of operations as if the 1994 Acquisition occurred on September 30, 1994

(2) See "Pro Forma Condensed Consolidated Financial Statements" for a complete description of the Pro Forma adjustments.

PRO FORMA CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

Overview

Upon consummation of the Offering, the Company anticipates that the following events will occur: (i) all of the 307,317 outstanding shares of Convertible Preferred Stock will convert into 3,073,170 shares of Common Stock; (ii) 418,118 shares of Common Stock will be issued upon exercise in full of the NationsCredit Warrant and the Company will receive $418,118 representing the exercise price for the NationsCredit Warrant; (iii) the Company will receive net proceeds of $27.5 million from the issuance of 1,900,000 shares of Common Stock at the initial public offering price of $16.00 per share and after deducting underwriting discounts and commissions and estimated offering expenses payable by the Company, (iv) all of the Company's senior and subordinated indebtedness for borrowed money will be repaid in full; and (v) all of JWA's obligations under the Consulting Agreement entered into in connection with the 1994 Acquisition will have been fulfilled and, accordingly, the remaining unamortized balance of the Consulting Agreement will be charged to earnings (collectively, the "Pro Forma Events").

The Pro Forma Consolidated Statement of Operations Data give effect to the Pro Forma Events as if they had occurred on September 30, 1994. The Pro Forma Condensed Consolidated Balance Sheet Data give effect to the Pro Forma Events as if they had occurred on December 31, 1995. The pro forma financial statements presented below do not purport to present the financial position or results of operations of the Company had the transactions assumed therein occurred on the dates indicated, nor are they necessarily indicative of the financial conditions or results of operations which may be expected to occur in the future.

	Year Ended September 30, 1995			Three Months Ended December 31, 1995		
	Actual	Adjustments	Pro Forma	Actual	Adjustments	Pro Forma
	(In thousands, except share data)			(In thousands, except share data)		
Net sales	$ 17,330		$ 17,330	$ 6,047		$ 6,047
Cost of sales	6,604		6,604	2,347		2,347
Gross profit	10,726		10,726	3,700		3,700
Operating expenses:						
Marketing and selling	912		912	265		265
Research and development	1,317		1,317	447		447
General and administrative	1,580	$ (333)(1)	1,247	533	$ (83)(1)	450
Amortization of intangibles	802		802	200		200
Amortization of deferred compensation	1,183	(1,183)(2)	—	296	(296)(2)	—
Total operating expenses	5,794		4,278	1,741		1,362
Operating income	4,932		6,448	1,959		2,338
Interest (income) expense	1,845	(1,899)(3)	(54)	428	(468)(3)	(40)
Redeemable warrant interest charge	4,561	(4,561)(4)	—	1,142	(1,142)(4)	—
Income (loss) before taxes	(1,474)		6,502	389		2,378
Provision for income tax	1,965	915 (5)	2,880	794	226 (5)	1,020
Net income (loss)	$ (3,439)	$ 7,061	$ 3,622	$ (405)	$1,763	$ 1,358
Net income (loss) per share	$ (2.26)(6)		$ 0.50(7)	$ (0.28)(6)		$ 0.19(7)
Weighted average shares outstanding	1,603,562 (6)		7,250,069(7)	1,608,000 (6)		7,257,281(7)

(1) Represents the elimination of amortization expense relating to the Consulting Agreement.

(2) Represents the elimination of deferred compensation expense relating to a portion of the Stockholders' Warrant, which is being amortized through the consummation of the Offering.

(3) Represents the elimination of interest expense and certain deferred financing costs resulting from the repayment of the Credit Facility and the Notes.

(4) Represents the elimination of redeemable warrant interest charges relating to the NationsCredit Warrant which are being amortized through the consummation of the Offering.

(5) Represents the related income tax effect of the pro forma adjustments utilizing an effective income tax rate of 41%.

(6) See "Net income (loss) per common share" of Note 2 of Notes to Consolidated Financial Statements for additional information.

(7) Based upon 1,858,781 and 1,865,993 pro forma weighted average common and common equivalent shares outstanding at September 30, 1995 and December 31, 1995, respectively, as increased for 3,073,170 shares of Common Stock issued upon the conversion of all outstanding shares of Convertible Preferred Stock, 418,118 shares of Common Stock issued upon the exercise of the NationsCredit Warrant and 1,900,000 shares of Common Stock issued in connection with the Offering.

Pro Forma Consolidated Statement of Operations Data

The Company anticipates that certain significant ongoing charges to operations relating to the 1994 Acquisition will be eliminated upon the consummation of the Offering. The pro forma consolidated statement of operations data set forth below reflect the elimination of $7.1 and $1.8 million of such charges, which were incurred during Fiscal 1995 and the three months ended December 31, 1995, respectively, as described in footnotes (1) through (7) below.

Pro Forma Condensed Consolidated Balance Sheet Data

In connection with the Pro Forma Events, the Company will incur non-recurring charges to earnings upon consummation of the Offering consisting of (i) approximately $2.2 million relating to the cost of prepayment of the Notes in advance of their September 30, 2002 maturity; (ii) $933,000 relating to the write-off of the deferred financing costs related to the Credit Facility and the Notes prior to maturity; and (iii) $494,000 relating to the write-of of the unamortized balance of the Consulting Agreement.

	As of December 31, 1995		
	Actual	Adjustments (In thousands)	Pro Forma
ASSETS			
Current assets:			
Cash and cash equivalents	$ 3,910	$11,117 (1)	$15,027
Accounts receivable	3,527		3,527
Inventories	1,173		1,173
Refundable income taxes	0	860 (2)	860
Deferred income taxes	411		411
Other current assets	43		43
Total current assets	9,064		21,041
Leasehold improvements and equipment, net	1,015		1,015
Intangible assets, net of accumulated amortization	14,574	(1,427)(3)	13,147
	$24,653	$10,550	$35,203
LIABILITIES AND STOCKHOLDERS' EQUITY			
Current liabilities:			
Current portion of long-term debt	$ 2,683	$(2,683)(4)	$ —
Accounts payable	1,196	(394)(5)	802
Other accrued liabilities	903		903
Income taxes payable	628	(628)(2)	—
Total current liabilities	5,410		1,705
Long-term debt, less current portion included above	12,052	(12,052)(6)	—
Deferred income taxes	107		107
Redeemable common stock warrants	5,703	(5,703)(7)	—
Redeemable convertible preferred stock	3,360	(3,360)(8)	—
Stockholders' equity (deficit)	(1,979)	35,370 (9)	33,391
	$24,653	$10,550	$35,203

(1) Represents (i) the receipt of $27.5 million in net proceeds by the Company from the sale of 1,900,000 shares of Common Stock offered hereby (based upon the initial public offering price of $16.00 per share and after deducting the underwriting discounts and commissions and estimated offering expenses payable by the Company), (ii) the repayment of approximately $12.4 million outstanding under the Credit Facility and $4.5 million under the Notes, and (iii) receipt of the $418,118 exercise price payable under the NationsCredit Warrant in connection with the issuance of 418,118 shares of Common Stock thereunder

(2) Represents the income tax, benefits resulting from the cost associated with prepayment of the Notes and the write-off of the unamortized costs described in (3) below, utilizing an effective income rate of 41%

(3) Represents the write-off of certain unamortized deferred financing costs relating to the Credit Facility and the Notes and the Consulting Agreement

(4) Represents the repayment of the current portion outstanding under the Credit Facility

(5) Represents the payment of offering costs included in accounts payable at December 31, 1995

(6) Represents the repayment of the long-term portion outstanding under the Credit Facility and the repayment in full of the Notes

(7) Represents the write-off of redeemable warrants financing charges relating to the NationsCredit Warrant

(8) Reflects the conversion of 307,317 shares of Convertible Preferred Stock into 3,073,170 shares of Common Stock

(9) Represents the increase in stockholders' equity attributable to (i) $27.5 million in net proceeds received by the Company from the sale of 1,900,000 shares of Common Stock offered hereby, (ii) $418,118 exercise price received by the Company upon exercise of the NationsCredit Warrant, (iii) the conversion of 307,317 shares of Convertible Preferred Stock into 3,073,170 shares of Common Stock and (iv) net reductions in stockholders' equity attributable to the items discussed in footnotes (2) and (3) above

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion of the results of operations and financial condition of the Company should be read in conjunction with the Company's consolidated financial statements and notes thereto included elsewhere in this Prospectus.

Overview

The Company designs, manufactures and sells piezoelectric impulse ink jet subsystems, including printheads, inks and other consumables and related components, principally to OEMs who integrate the products into industrial printing systems which are then sold to end-users. The majority of the Company's net sales are derived from OEMs who sell products for carton coding applications. The Company began to focus on these applications in 1993. The introduction of new printheads and the Company's VersaPrint brand of ink at that time, both of which are targeted for carton coding applications, triggered relatively rapid growth in the Company's sales volume. Prior to focusing on carton coding, the Company sold its products principally to OEM customers whose products were used in applications involving the coding of checks.

The Predecessor was founded in 1989 as Trident, Inc. Shortly after its incorporation, a majority interest in the Predecessor was purchased by JWA through JWA's direct subsidiary, Porelon. At that time, the Predecessor also obtained the Dataproducts License from Dataproducts, which gave the Predecessor exclusive rights to a series of liquid ink jet technology patents for use in the "industrial marling field." The technology covered by the Dataproducts License is at the core of the Company's current line of industrial printing subsystems. In December 1992, Porelon purchased the remaining minority interests in the Predecessor and the Predecessor became a wholly-owned subsidiary of Porelon.

On June 24, 1994, the Company acquired all of the capital stock of the Predecessor in the 1994 Acquisition. The aggregate cash consideration paid by the Company in the 1994 Acquisition was approximately $19.9 million, including $1.0 million for the Consulting Agreement. The 1994 Acquisition has been accounted for as a purchase and, accordingly, the total consideration has been allocated to the assets acquired and liabilities assumed based on their estimated fair value at the date of the 1994 Acquisition. The excess of the purchase price over the fair value of the net assets acquired ($13.9 million) is being amortized over 20 years. Periodically, the Company evaluates the realizability of this asset based upon expectations of undiscounted cash flows and operating income. Based upon its most recent analysis, the Company believes that no impairment of the current net book value of this asset exists. The $1.0 million payment made by the Company under the Consulting Agreement with JWA is being amortized over the three year term of the agreement. The services provided by JWA under the Consulting Agreement largely relate to transition services in connection with the establishment of stand-alone operations and assistance in preparation for an initial public offering. Accordingly, the Company intends to write off the unamortized balance attributable to the Consulting Agreement upon consummation of the Offering. Other long-term assets acquired in the 1994 Acquisition are being depreciated over their respective useful lives of 5 to 10 years. See "Note 1 of Notes to Consolidated Financial Statements."

Upon consummation of the Offering, the Company anticipates that it will expense approximately $2.2 million of unamortized original issue discount upon prepayment of the Notes, approximately $907,000 of unamortized financing costs relating to the Credit Facility and approximately $452,000 representing the unamortized portion of the cost of the Consulting Agreement. These charges will result in a

charge to earnings of approximately $2.1 million, net of related income tax benefits.

Results of Operations

The following table presents, for the periods indicated, the percentage relationship that certain statement of operations items bear to net sales.

	Predecessor	Pro Forma Combined	Company		
	For the 9 Months Dated September 30,	For the 12 Months Ended September 30,	For the Fiscal Year Ended September 30,	For the 3 Months Ended December 31	
	1993	1994	1995	1994	1995
Net sales	100.0%	100.0%	100.0%	100.0%	100.0%
Cost of sales	42.6	46.9	38.1	41.9	38.8
Gross profit	57.4	53.1	61.9	58.1	61.2
Operating Expenses					
Marketing and selling	7.0	5.6	5.3	5.8	4.4
Research and development	8.4	8.6	7.6	7.8	7.4
General and administrative	7.9	9.1	9.1	9.0	8.8
Amortization of intangibles	3.4	3.9	4.6	5.8	3.3
Amortization of deferred compensation		—	6.8	8.6	4.9
Total operating expenses	26.7	27.2	33.4	37.8	28.8
Operating income	30.7	25.9	28.5	20.3	32.4
Interest (income) expense, net	(0.2)	3.9	10.7	13.5	7.1
Redeemable warrant interest charge			26.3	33.2	18.9
Income (loss) before income taxes	30.9	22.0	(8.3)	(26.4)	6.4
Provision for income taxes	12.9	10.2	11.3	7.9	13.1
Net Income (loss)	18.0%	11.8%	(19.8)%	(34.3)%	(6.7)%

Three Months Ended December 31, 1995 Compared to Three Months Ended December 31, 1994.

Net Sales. Net sales increased $2.6 million, or 76%, to $6.0 mullion for the three months ended December 31, 1995 from $3.4 million for the three months ended December 31, 1994. Net sales of printheads increased by approximately $1.6 million in the three months ended December 31, 1995 due to a 62% increase in printhead unit sales and a 7.7% increase in average selling price per printhead unit. The average selling price per printhead unit increased during calendar year 1995 as a larger proportion of higher priced newer models for carton coding applications were sold. Sales of ink products increased 96% in the three months ended December 31, 1995 as compared to the same quarter a year ago due to the expanding installed base of printheads. Net sales to inter-

national customers increased by $1.0 million, or 98%, for the three months ended December 31, 1995 as compared to the three months ended December 31, 1994. Because of the size of the carton coding market and the relatively small market penetration achieved to date, the Company believes that it can continue to sell printheads into its principal market and expand its installed base of printheads. There can, however, be no assurance that such sales and expansion will experience continued growth at similar rates or not be limited or otherwise adversely affected by competition, emerging or alternative technologies, shifts in customer demands or other factors.

Gross Profit. Gross profit increased $1.7 million, or 85%, to $3.7 million for the three months ended December 31, 1995 from $2.0 million for the three months ended December 31, 1994. Gross profit as a percentage of net sales increased from 58.1% for the three months ended December 31, 1994 to 61.2% for the three months ended December 31, 1995. The increase in gross profit as a percentage of net sales was due to the higher printhead average selling prices as well as lower average printhead costs. The increase in gross profit was offset in part by an increase in the Company's warranty reserve which was adjusted to reflect a revised estimate of potential product repair costs, as well as an overall increase in the installed base of printheads. The January 1995 implementation of work cell and just-in-time concepts in the printhead production process continued to improve production yields and efficiencies resulting in average cost reductions.

Marketing and Selling Expenses. Marketing and selling expenses increased $67,000, or 34%, to $265,000 for the three months ended December 31, 1995 from $198,000 for the three months ended December 31, 1994 due to the addition of sales personnel. As a percentage of net sales, however, these expenses decreased to 4.4% for the three months ended December 31, 1995 from 5.8% for the three months

ended December 31, 1994 due to the increase in net sales. Because of its OEM customer base, the Company can effectively manage the marketing and selling function with a relatively small organization. Employee compensation accounts for the majority of these expenses and sales commissions are a relatively small part of overall compensation. As a result of these factors, marketing and selling expenses do not vary in direct proportion to sales volume. but tend to increase as personnel is added at the discretion of management:

Research and Development Expenses. Research, and development expenses increased $180,000. or 67%, to $447,000 for the three months ended December 31, 1995 from $267,000 for the three months ended December 31, 1994 due principally to the addition of engineering personnel as well as increases in research project materials and supplies. As a percentage of net sales, however, these expenses decreased to 7.4% for the three months ended December 31, 1995 from 7.8% for the three months ended December 31, 1994 due to the increase in net sales. The Company's product research and development groups work in teams on engineering development programs to design and develop new products and enhancements to existing products.

General and Administrative Expenses. General and administrative expenses increased $194,000, or 58%, to $533,000 for the three months ended December 31, 1995 from $339,000 for the three months ended December 31, 1994 due principally to the addition of accounting and administrative personnel as well as increases in recruiting fees. As a percentage of net sales, however, these expenses decreased to 8.8% for the three months ended December 31, 1995 from 9.9% for the three months ended December 31, 1994 due to the increase in net sales.

Amortization of Intangibles and Amortization of Deferred Compensation. The amortization amounts for intangibles and deferred compensation of $200,000 and $295,000, respec-

tively, did not vary materially in amount for the three months ended December 31, 1995 as compared to the three months ended December 31, 1994. A more detailed discussion of these expenses is found in the section titled "Fiscal 1995 Compared to Combined 1994."

Interest (Income) Expense, Net. Interest (income) expense, net decreased $36,000, or 8%, to $428,000 for the three months ended December 31, 1995 from $464,000 for the three months ended December 31, 1994 due to the increase in interest income on higher cash balances generated by cash flow from operations.

Redeemable Warrant Interest Charges. Redeemable warrant interest charges of $1.1 million did not vary materially in amount for the three months ended December 31, 1995 as compared to the three months ended December 31, 1994. This expense is associated with the accretion in value of the NationsCredit Warrant (See Note 10 of Notes to Consolidated Financial Statements):

Fiscal 1995 Compared to Combined 1994.

For comparison purposes, Combined 1994 represents combined data of the Predecessor for the period from October 1, 1993 to June 23, 1994, the date of the 1994 Acquisition, and of the Company for the period from June 24, 1994 to September 30, 1994. This information is presented to provide more meaningful period to period comparisons.

Net Sales. Net sales increased $4.8 million, or 38%, to $17.3 million in Fiscal 1995 from $12.5 million in Combined 1994. Approximately $2.5 million of the increase in net sales was due to higher printhead unit volumes, particularly to carton coding customers, and a 7.4% increase in average selling price per printhead unit. The introduction of the Ultrajet 256/32 printhead and a printhead model for the AllWrite ink, as well as increased sales of existing models accounted for the Fiscal 1995 printhead unit volume increase. The increase

in average selling price per printhead unit in Fiscal 1995 was attributable to demands from carton coding OEMs for higher priced, newer model printheads such as the Ultrajet 192/32 and Ultrajet 256/32 with improved print height capabilities. The remaining increase in net sales in Fiscal 1995 was attributable to increased unit volumes of ink as the installed base of printheads expanded during the year. Net sales to international customers increased by $1.6 million, or 46%, in Fiscal 1995.

Gross Profit. Gross profit increased $4.1 million, or 62%, to $10.7 million in Fiscal 1995 from $6.6 mullion in Combined 1994. Gross profit as a percentage of net sales increased from 53.1% in Combined 1994 to 61.9% in Fiscal 1995. The increase in gross profit as a percentage of net sales was due principally to increased prices on the Company's printhead products. Lower printhead costs also contributed to the margin improvement in Fiscal 1995. Implementation of work cell and just-in-time concepts in the printhead production process improved production yields and efficiencies resulting in average cost reductions as compared to Combined 1994. Gross profit in Combined 1994 included a $362,000 charge to cost of sales, equivalent to 2.9% of net sales, for the inventory step-up to fair market value recorded in connection with the 1994 Acquisition.

Marketing and Selling Expenses. Marketing and selling expenses increased $211,000, or 30%, to $912,000 in Fiscal 1995 from $701,000 in Combined 1994, but decreased as a percentage of net sales to 5.3% in Fiscal 1995 from 5.6% in Combined 1994 as a result of increased net sales.

Research and Development Expenses. Research and development expenses increased $239,000, or 22%, to $1.3 million in Fiscal 1995 from $1.1 million in Combined 1994, but decreased as a percentage of sales to 7.6% in Fiscal 1995 from 8.6% in Combined 1994 due to the increase in net sales. The Company expects to increase engineering and research

and development spending significantly in fiscal year 1996 to develop new technologies and products.

General and Administrative Expenses. General and administrative expenses increased $443,000, or 39%, to $1.6 million in Fiscal 1995 from $1.1 million in Combined 1994, but remained virtually unchanged as a percentage of net sales at 9.1%. The Company is amortizing over three years the cost of the $1.0 million Consulting Agreement it entered into with JWA in connection with the 1994 Acquisition as a charge to general and administrative expense. Approximately $244,000 of the increase in general and administrative expenses resulted from a full year of amortization of the Consulting Agreement in Fiscal 1995. The unamortized portion of the cost of this agreement will be charged to operations upon consummation of the offering.

Amortization of Intangibles. Amortization of intangibles increased $316,000, or 65%, to $802,000 in Fiscal 1995 from $486,000 in Combined 1994 principally due to a full year of amortization expense related to the excess of purchase price over the fair value of net assets acquired in connection with the 1994 Acquisition.

Amortization of Deferred Compensation. In connection with the 1994 Acquisition, the Stockholders' Warrant to purchase up to 235,192 shares of Common Stock was issued on a pro rata basis to all of the Company's Common Stockholders of record. A portion of the Stockholders' Warrant to purchase up to 108,400 shares was issued to certain members of management and directors of the Company. In Fiscal 1995, the Company recorded deferred compensation expense for the difference between the exercise price on the date of issuance and the estimated fair value of the Stockholders' Warrant at the expected date of the Offering (the time that the number of shares of Common Stock subject to the Stockholders' Warrant can be determined). This amount is being amortized over the period commencing October 1, 1994

through the anticipated date of consummation of the Offering. Deferred compensation expense recognized during Fiscal 1995 was $1.2 mullion.

Interest (Income) Expense, Net. Interest (income) expense increased $1.4 million to $1.8 million in Fiscal 1995 from $482,000 in Combined 1994 primarily due to the full year of interest charges related to the increased debt level from the 1994 Acquisition.

Redeemable Warrant Interest Charge. During Fiscal 1995, the Company expensed $4.6 million as redeemable warrant interest charges. This expense is associated with the accretion in value of the NationsCredit Warrant. (See Note 10 of Notes to Consolidated Financial Statements.) There were no similar expenses incurred in Combined 1994.

Provision for Income Taxes. The provision for income taxes for Fiscal 1995 was $2.0 mullion on a net loss before taxes of $1.5 million. This effective tax rate was due principally to the non-deductibility of the redeemable warrant interest charges, amortization of deferred compensation and amortization costs related to excess of purchase price over fair value of net assts acquired. The effective tax rate of 46% for Combined 1994 was significantly lower than the rate for Fiscal 1995 due to the absence of significant non-deductible charges in Combined 1994.

Combined Twelve Months Ended September 30, 1994, Compared to the Nine Months Ended September 30, 1993.

Due to the difference in the number of months within the periods being compared, direct dollar comparisons are not meaningful. The following discussion will concentrate on the rate of annualized growth in net sales and an explanation of material differences in the relationships that certain other statement of operations items bear to net sales.

Net Sales. Net sales for Combined 1994 of $12.5 million increased 26% over the nine months ended September 30,

1993 on an annualized basis. The growth rate in net sales was due principally to higher unit sales to domestic carton coding customers and to increased sales to customers in Europe and the Far East. Net sales of $3.5 million to those international customers grew at a rate in excess of 100% for Combined 1994 as compared to the nine months ended September 30, 1993 on an annualized basis.

Gross Profit. Gross profit as a percentage of net sales decreased to 53.1% for Combined 1994 from 57.4% for the nine months ended September 30, 1993. The principal reason for this decrease was the $362,000 charge to cost of sales, equivalent to 2.9% of net sales, for the inventory step-up to fair market value recorded in connection with the purchase transaction for the 1994 Acquisition. In addition, net sales for the nine months ended September 30, 1993 included royalty revenue of $171,000 related to an exclusive sales license with Porelon pursuant to which Porelon had the right to sell the Company's products for carton coding applications to OEMs in North America. This license expired in 1993.

Marketing and Selling Expenses. Marketing and selling expenses decreased as a percentage of net sales to 5.6% in Combined 1994 from 7.0% in the nine months ended September 30, 1993 due to the increase in net sales.

Research and Development Expenses. Research and development expenses increased as a percentage of net sales to 8.6% in Combined 1994 from 8.4% in the nine months ended September 30, 1993 due principally to staffing increases in the department.

General and Administrative Expenses. General and administrative expenses increased as a percentage of net sales to 9.1% in Combined 1994 from 7.9% in the nine months ended September 30, 1993. General and administrative expenses for Combined 1994 reflected higher legal and professional fees as well as approximately three months of amortization expense related to the Consulting Agreement.

Amortization of Intangibles. Amortization of intangibles increased as a percentage of net sales to 3.9% in Combined 1994 from 3.4% in the nine months ended September 30, 1993 due to approximately three months of relatively higher amortization charges resulting from the 1994 Acquisition.

Interest (Income) Expense, Net. Interest (income) expense, net, of $482,000 for Combined 1994 increased over the nine months ended September 30, 1993 primarily due to the interest charges related to the increased debt level from the 1994 Acquisition. During the nine months ended September 30, 1993, the Predecessor had no long term debt and had no significant interest expense.

Quarterly Statement of Operations Data

The following tables set forth certain unaudited quarterly financial information in dollars and as a percentage of net sales for the periods indicated. In management's opinion, the unaudited data have been prepared on the same basis as the audited information set forth in the consolidated financial statements contained in this Prospectus and include all adjustments, consisting only of normal recurring adjustments, which management considers necessary for a fair presentation of results for such periods.

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	1993 Oct-Dec	1994 Jan-Mar	1994 Apr-Jan 31(1)	1994 Jan 24-Sep27)	1994 Oct-Dec	1994 Jan-Mar	1995 Apr-Jan	1995 Jul-Sep	1995 Oct-Dec
Quarterly Statement of Operations Data									
Net sales	$2,717	$2,994	$3,081	$3,701	$3,436	$3,898	$4,416	$5,580	$6,047
Cost of sales	1,335	1,337	1,336	1,845	1,440	1,487	1,643	2,034	2,367
Gross profit	1,382	1,657	1,745	1,856	1,996	2,411	2,773	3,546	3,680
Operating Expenses									
Marketing and selling	166	179	167	189	198	216	227	271	265
Research and development	182	280	284	332	267	306	371	373	447
General and administrative	227	246	291	373	339	395	402	444	553
Amortization of intangibles	96	97	74	219	200	200	201	201	200
Operating income before amortization of deferred compensation	711	855	929	743	992	1,294	1,572	2,257	2,255
Association of intangibles					295	296	296	296	296
Operating income	711	855	929	743	697	998	1,276	1,961	1,959
Interest (Income) expense, net	2		(10)	490	464	470	469	442	428
Redeemable warrant interest charge					1,140	1,140	1,40	1,141	1,142
Income (loss) before income taxes	709	855	929	743	697	998	1,276	1,961	1,959
Provision for income taxes	316	321	396	247	273	394	506	792	794
Net income (loss)	$ 393	$ 534	$ 543	$ 6	$(1,180)	$(1,006)	$(839)	$(414)	$ (409)
Percentage of net sales:									
Net sales	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Cost of sales	49.1	44.7	43.4	49.9	41.9	38.1	37.2	35.5	38.8
Gross profit	50.9	55.3	56.6	50.1	58.1	61.9	62.8	63.5	61.2
Operating expenses									
Marketing and selling	6.1	6.0	5.4	5.1	5.8	5.5	5.1	4.9	4.4
Research and development	6.7	9.4	9.2	9.0	7.8	7.9	8.4	6.7	7.4
General and administrative	8.3	8.2	9.4	10.1	9.9	10.1	9.1	8.0	8
Amortization of administrative	3.6	3.2	2.4	5.9	5.8	5.1	4.6	3.6	4.5
Operating income before amortization of deferred compensation	26.2	28.5	30.2	20.0	28.8	33.3	35.6	40.3	37.3
Amortization of deferred compensation					8.5	7.7	6.7	5.2	4.9
Operating income	26.2	28.5	30.2	20.0	20.3	25.6	28.9	35.1	32.4
Interest (income) expense, net	0.1		(0.3)	13.2	13.5	12.1	10.6	7.9	7.1

Redeemable warrant interest charge					33.2	29.2	25.8	20.4	18.9
Income (loss) before taxes	26.1	28.5	30.5	6.8	(26.4)	(15.7)	(7.5)	6.8	6.4
Provision for income taxes	11.6	10.7	12.9	6.6	7.9	10.1	11.5	14.2	12.1
Net income (loss)	14.5%	17.8%	17.6%	0.2%	(34.3)%	(25.8)%	(19.0)%	(7.4)%	(6.7)%

(1) This quarterly period had 83 days ending June 23, 1994, the day before the closing of the 1994 Acquisition

(2) This quarterly period had 98 days beginning on June 24, 1994, the day of the closing of the 1994 Acquisition

Quarterly net sales and results of operations may fluctuate as a result of a variety of factors, including changes in product mix, demand for the Company's products, the introduction of new products and product enhancements by the Company or its OEM customers, competitive conditions in the industry and general economic conditions.

Liquidity and Capital Resources

Since 1991, the Predecessor and the Company have financed their operations and purchase of capital equipment principally through internally generated funds.

In June 1994, in connection with the 1994 Acquisition, the Company entered into the Credit Facility. The Credit Facility provided funds in the form of long-term debt totaling $13.5 million and a working capital loan of up to $2.5 million. In addition, the Company also received proceeds of $1.9 million from the TA Investors and the Chestnut Investors for the Notes.

The Company's operations provided $3.8 million and $1.5 million in cash in Fiscal 1995 and the three months ended December 31, 1995, respectively. Investing activities, which totaled $440,000 and $196,000, respectively, in Fiscal 1995 and the three months ended December 31, 1995, consisted primarily of capital equipment purchases. The Company also repaid $1.0 million in notes and loans under the Credit Facility during Fiscal 1995 and $312,000 during the three months ended December 31, 1995. As of September 30, 1995 and December 31, 1995 the Company's principal sources of liquidity consisted of $3.0 million and $3.9 mil-

lion, respectively in cash and cash equivalents and $2.0 million and $2.5 million, respectively, in availability in the unused working capital portion of the Credit Facility. At the completion of the Offering, the Company will repay all indebtedness outstanding under the Credit Facility and terminate such facility.

Inventories decreased $500,000, or 34%, to $1.1 million at September 30, 1995 from $1.6 million at September 30, 1994. This decrease reflects the Company's conversion to a just-in-time delivery system which resulted in lower inventory requirements. As of December 31, 1995, inventories had increased to $1.2 million reflecting the increase in the Company's net sales. Accounts receivable increased $1.2 million, or 74%, to $2.9 million at September 30, 1995 from $1.7 million at September 30, 1994. This increase reflects a commensurate increase in the Company's net sales during Fiscal 1995. As of December 31, 1995, accounts receivable had increased to $3.5 million reflecting the Company's higher net sales volume.

The Company believes that funds generated from operations and the net proceeds from the Offering will be sufficient to provide adequate working capital and funds necessary for anticipated capital expenditures and investments for at least the next twelve months. The Company currently anticipates using a portion of such funds in 1996 and/or 1997 for facilities expansion and additional factory automation equipment. In addition, the Company intends to evaluate the acquisition of new technologies, whether through entering into licensing arrangements, acquiring businesses owning desirable technology, or otherwise, for which it may require additional capital. There can be no assurance, however, that such additional capital will be available on terms acceptable to the Company.

Effect of Recent Accounting Pronouncements

In March 1995, the Financial Accounting Standards Board (the "FASB") issued Statement of Financial Accounting Standards ("SFAS") No. 121, "Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to be Disposed of," which established criteria for the recognition and measurement of impairment loss associated with long-lived assets. The Company will be required to adopt this standard in fiscal year 1997. Based on the Company's initial evaluation, adoption is not expected to have a material impact on the Company's financial position or results of operations.

In October 1995, the FASB also issued SFAS No. 123, "Accounting for Stock-Based Compensation", which established financial accounting and reporting standards for stock-based employee compensation plans. Companies are encouraged, rather than required, to adopt a new method that accounts for stock compensation awards based on their fair value using an option pricing model. Companies that do not adopt this new method will be required to make pro forma disclosures of net income as if the fair value-based method of accounting required by SFAS No. 123 has been applied. The pro forma disclosures are required for fiscal year 1996. The fair value-based method of accounting, if adopted by the Company, is effective for fiscal year 1997. Based upon the Company's initial evaluation, promulgation of SFAS No. 123 by the FASB is not expected to have a material impact on the Company's financial position or results of operations because the Company intends to make pro forma disclosures to comply with this pronouncement, instead of adopting the new method.

BUSINESS

Company Overview

The Company designs, manufactures and markets piezoelectric impulse ink jet subsystems including printheads, inks and other consumables, and related components for the industrial market. The Company's proprietary products are used for a variety of printing applications which require high speed, good print quality, durable equipment and the ability to change the printed text or pattern frequently. The Company's Ultrajet printing subsystems are marketed worldwide, primarily through over 70 OEM customers that integrate them into computer-controlled, application-specific products which are then sold to end-users. The Company's contracts with its OEM customers also provide for ongoing sales by the Company of consumables, consisting principally of inks and printing subsystem components.

The largest application in which the Company's products are used is carton coding, which involves printing directly onto shipping cartons. Carton coding systems which incorporate the Company's products allow end-users to print any combination of high quality text, bar codes, and graphics directly onto blank cartons as they move down an assembly or production line. The Company's products allow this information to be changed frequently, even carton by carton. This eliminates the need to maintain a substantial inventory of preprinted cartons or labels, while also reducing production time and costs and allowing for frequent changeover between products. A recent industry estimate predicts that overall end-user demand for impulse ink jet products in the carton coding market will grow from $25 million in 1994 to $140 million in 1999, based on end-user prices. Other current industrial applications for the Company's products include check coding, addressing and business forms imprinting, postal bar coding and stamp cancellation and garment pattern plotting.

Impulse ink jet printing, which was originally developed for the office environment, is a non-contact, digital printing technology in which small droplets of ink are generated from an array of orifices and are propelled through the air toward the surface to be printed. The Company's products, which were developed for the more demanding requirements of the industrial market, are differentiated from office impulse ink jet printers by their higher printing speed, wider print area and rugged construction. The Company's core ink jet printing technology, which is protected by a number of patents, is the result of over 10 years of research and development efforts. The Company has exclusive license rights to this technology in the industrial liquid ink jet market and intends to file patent applications in its own name directed to new ink formulations and printing methods and equipment. To date, the Company has marketed inks which are best suited for use on porous and semi-porous surfaces, such as cardboard and other paper-based shipping containers, checks, mail pieces and paper garment patterns. These inks are attractive to end-users because of their non-toxic and low maintenance characteristics. The Company is also seeking to develop inks and printheads which are suitable for printing on non-porous surfaces, such as plastic bottles and films, and believes that these product developments will allow the Company to sell its products in additional markets. The Company has developed and is presently testing a prototype printhead for non-porous printing which the Company currently believes will be ready for commercial release by the end of calendar year 1996.

The Company's net sales have grown from $6.4 million for the year ended December 31, 1991 to $17.3 million for Fiscal 1995. Over the same period, the Company's operating income has grown from $1.1 million to $4.9 million. In addition, the Company's net sales increased from $3.4 million for the three months ended December 31, 1994 to $6.0 million for the three months ended December 31, 1995. The Com-

pany's international revenues have grown from $3.5 million for Combined 1994 to $5.2 million for Fiscal 1995. The growth rate in the Company's international sales during Combined 1994 and Fiscal 1995 has been higher than the Company's overall growth rate and, in the Company's judgment, is representative of the potential in the international markets.

Industrial Ink Jet Printing

Ink jet printing is a non-contact, digital printing method which allows images to be created and printed under computer control. Ink jet technology has revolutionized the office and home printer market and has been increasingly used in industrial marking applications over the past 20 years. There are three basic ink jet technologies: continuous ink jet, valve jet and impulse ink jet, each of which offers diverse performance and cost characteristics. Continuous ink jet printing involves a continuous stream of ink droplets which are electrically charged to deflect the ink into the desired pattern. Valve jet printing involves sending electronic signals to individual solenoid valves which cause ink droplets to be fired from a pressurized chamber through a nozzle. Impulse ink jet printing utilizes a short duration pressure pulse to eject a droplet of ink from a small orifice. There are no physical valves or pumps required; surface tension and capillary forces control the process. The Company's proprietary impulse ink jet products employ piezoelectric technology, in which electronic pulses are applied to a ceramic crystal, which in turn applies pressure to ink in a chamber causing the ink to be propelled from the orifice onto the printing surface.

The industrial printing market generally encompasses the use of printing technology in manufacturing or production processes, such as printing onto shipping cartons and addressing direct mail pieces. Customers in these markets typically demand high-speed, highly durable printing devices

able to withstand the rigors of industrial use, such as wide extremes of temperature and humidity, dirt and dust, shock and vibration, as well as unskilled operators and commercial requirements which govern the printed image. In addition, recent trends have placed further demands on industrial printing technologies. First, competitive and product marketing pressures have caused manufacturers, distributors and retailers to implement more efficient distribution systems, such as "just-in-time" delivery and electronic data interchange ("EDI") links. The implementation of these systems has in turn required that products and containers be coded with manufacturing, pricing and tracking information that facilitates automatic processing. Second, many industries, trade organizations and retailers are requiring that uniform bar coding and "use-by" date information be placed directly on products, as well as on shipping containers. The print quality of bar codes is particularly important as imperfect print images may result in a production line being halted or a product or container being mishandled or lost. In particular, substantial contractual penalties may be imposed by customers for improperly printed bar codes on deliveries from their supplier.

Industrial printing applications have traditionally utilized preprinted labels, on-demand thermal transfer labels, or offset or lithographic printing methods. Preprinted labels and offset or lithographic printing generally can meet some industrial requirements with respect to speed and print area. They are typically economical only when large quantities of the same item are produced. However, they might not be readily incorporated into an existing production or printing process, and do not allow the addition of variable data. Alternatively, direct thermal and thermal transfer printing methods, by design, print labels with variable data on-demand, which labels are then affixed to the surface. The use of labels on the print surfaces may result in slower production speeds, higher supplies cost and increased possibility of wear or

breakage of the printer or interruption of the production process resulting from the starting and stopping of the labeling process.

Ink jet printing technology, by contrast, possesses many characteristics which are desirable in industrial applications. Preprinted boxes and labels are largely eliminated because most of the required fixed and variable information can be printed on-line, greatly reducing inventory requirements and costly labels. Additionally, ink jet technology is non-contact, which allows it to be integrated into existing production areas and to operate at production speeds without slowing down or stopping the production process. Finally, the ability to print any information digitally offers significant flexibility, which enables end-users to reduce inventories and cycle tunes.

The speed, flexibility and relative cost of ink jet printing generally have driven the application of ink jet printing technologies in industrial markets. Continuous ink jet, for example, has been very successful in high speed, non-contact printing applications, although it is more expensive than piezoelectric impulse ink jet to adapt to the greater print heights required in many industrial applications. Valve jet printers have been successful in low cost printers for applying simple text to cartons, but cannot print graphics and bar codes with sufficiently high resolution to satisfy industrial application requirements, specifically, the Uniform Code Council-Shipping Container Symbol program ("UCC-SCS"), which is the industry standard for bar code printing in this area. The other principal impulse ink jet technology, bubble jet, is used in certain low speed, low duty cycle applications. It is subject to frequent burnout in high-use industrial settings, however, because of its method of operation. Further, bubble jet printers also lack the throw distance required in an industrial environment. In contrast to these other ink jet technologies, the Company's proprietary impulse ink jet technology offers price/performance characteristics required by customers in the Company's markets, as well as durability and versatility.

Business Strategy

The Company's objective is to be a leading supplier of impulse ink jet subsystems and related consumables to industrial markets. Trident's operating strategy is to supply OEM customers with innovative products which are responsive to end-users' needs; to be a world class manufacturer of high quality, reliable, cost-effective products; and to provide superior sales and applications support. The Company also strives to maximize the potential of its core technology through expanded research and development activities. The Company believes the following strategies are critical to its success:

Maximizing its carton coding opportunity. The Company has licensed its products to substantially all of the major providers of ink jet systems for carton coding applications. Although increased end-user acceptance of impulse ink jet technology generated growth in this application in the past year, overall market penetration remains small. To maximize the potential in this market, the Company intends: to develop new products that increase print quality, width and bar code scanability; to reduce cost; and to enter the low-end of the market currently served by valve jet printing. In Fiscal 1995, the Company responded to demands from carton coding OEMs with the introduction of the Ultrajet 256/32 printhead, which had improved print height capabilities, as well as a printhead model for the Company's AllWrite ink. In January 1995, the Company implemented work cell and just-is-tine concepts in its printhead production process which has led to continued improvements in production yields and efficiencies resulting in average cost reductions. Given that the carton coding market is a relatively new market for the Company's products, the Company anticipates that it will continue to focus significant resources on the evolving needs of this market in order to increase its market penetration.

Improving its position in other current markets. The Company intends to target applications for the addressing,

postal, financial and plotting markets primarily through the introduction of new products. The Company believes future growth opportunities in these markets will come from replacing other ink jet technologies with Trident's piezoelectric impulse ink jet technology.

Expanding international sales and applications support. The Company expects that international sales will continue to be a significant portion of the Company's net sales. The Company believes that the adoption of impulse ink jet printing technologies in the international industrial printing industry lags behind that of the U.S. To take advantage of this opportunity, the Company has established an office in Dublin, Ireland to support the European market and anticipates that new offices will be opened as the Company expands further into other geographic regions, such as the Far East. As the Company's international business grows, the Company expects to add further personnel in these regions and offer local packaging of inks and repair services. In Fiscal 1995, the Company's net sales to international customers increased $1.6 million, or 46%, over international net sales in Combined 1994.

Penetrating new marker segments. The Company believes that newer applications for ink jet technology, such as wide area printing of signs, billboards and fabrics, printing onto parts and primary packages and security printing applications, offer significant growth opportunities. The Company anticipates that success in these new markets will require the acquisition and development of new technology as well as enhancements of existing printheads and inks. The Company expects to work with various developers of these systems to design and produce proprietary products with the unique properties required by these systems. The Company is currently developing prototypes of these products and to date has not sold any of these products commercially.

Developing or acquiring further proprietary technologies. The Company believes that the strengths of its current proprietary technology are its speed, wide print area, reliability and robust construction. To continue to penetrate industrial markets, other impulse ink jet technologies are being explored by the Company which the Company expects will be lower in cost and will permit use of a wider range of inks. Although the Company has evaluated and expects to continue to evaluate potential acquisitions of technology or businesses from time to time, the Company has not made any such acquisitions to date and has no pending commitments or understandings to make any such acquisitions.

Current Industry Applications

General. The Company's products are currently utilized in five principal industry applications: the printing or coding of shipping cartons; the imprinting of tracking codes on checks processed through banking systems; the printing and addressing of variable data onto envelopes, catalogs and other mailing pieces and customized/personalized business forms; the plotting of patterns onto paper templates for cutting garment material; and the imprinting of postal items for stamp cancellation and bar coding. The Company's current ink products are conducive to those applications which involve porous and semi-porous printing surfaces such as paper and cardboard. Most of these inks do not dry by evaporation but are absorbed into such surfaces. Because of this characteristic, they do not have the maintenance problems associated with fast-drying, solvent based inks which can dry in the printhead, causing clogging or other interruption of the printing process.

Carton Coding. Net sales represented by products sold to OEMs for carton coding applications accounted for approximately $11.3 million, or 67%, of the Company's net sales in Fiscal 1995, and approximately $4.2 million, or 72% of the Company's net sales for the three months ended December

31, 1995. Carton coding involves the printing onto shipping cartons of product information, bar codes, time-date data, lot manufacturing codes and logos. The printing of several different types of information onto shipping cartons has traditionally required that end-users utilize off-line processes to produce a finished carton, which increases their production costs, throughput times and inventory requirements. Impulse ink jet systems, by contrast, are capable of printing all of these types of information on a carton in one, on-line process and of printing variable data, even carton by-carton. This results in reduced production costs, throughput tunes and inventory requirements. A recent industry estimate by Giga Information Group, formerly BIS Strategic Decisions, of the worldwide market for all ink jet canon coding systems and consumables (based on end-user prices) was $185 million in 1994, increasing to $340 million in 1999. Within this group, it is further estimated that the demand for higher performance impulse ink jet carton coding systems and consumables will grow from $25 million in 1994 to $140 million in 1999, based on end-user prices.

The trend toward impulse ink jet printing solutions for carton coding applications is being driven by a number of factors, including the automation of production lines, the increased use of bar codes which need to meet highly-detailed specifications such as the UCC-SCS, just-in-time manufacturing and cost reduction programs. The Company believes the typical payback time for the end-user customer to be less than one year due to the cost saved in inventory and labels. The Company expects this market to increase as a result of anticipated increased use of high resolution, on-demand printing over conventional methods and replacement of valve jet printers in the lower end of the market with newer, low-cost impulse ink jet products.

The Company's OEM customers construct carton coding systems utilizing the Company's piezoelectric impulse ink jet printheads, ink reservoirs, tubing, driver electronics and ink.

The Company's OEM customers develop the enclosure, computer or controller interface, operator keyboard and software and provide sales and service, training and applications engineering to the end-user. Some OEM customers also develop their own ink reservoir and pumping system and electronic driver printed circuit boards. Carton coding systems typically range from one or two printheads per system for printing bar code or variable text only, to four to six printheads per system for printing all of the information required on one side of a carton. Systems can also be created which print on both sides of a carton. The printhead component of an impulse ink jet carton coding system typically represents one-third to one-half of the manufacturing cost of the system. These systems are typically installed as an integral component of a manufacturing or assembly process and are designed to cause little or no reduction in throughput time. Information is printed on the shipping cartons as they pass by the OEM ink jet system on their way through the manufacturing process.

The principal benefits of the Company's technology to end-user customers are in the area of inventory management and control. Traditionally, end-users of carton coding systems, such as large manufacturing companies and contract packing companies, have been required to keep sufficient carton inventories for their anticipated production of each item they produce or package. Taking into account the variability of sizes and brands of products produced by the typical customer in this market, it is not unusual for such a customer to need more than 100 different cartons. A system incorporating the Company's printing subsystems allows the customer to inventory blank cartons onto which any necessary information may be printed. This can alleviate customers' concerns that shortages of a particular carton might prevent its product from being shipped. A large end-user of the Company's products may have multiple production lines in several geographic locations and require several hundred

printheads to make a changeover of the production process to the Company's technology, The end-users of these systems typically purchase all of their ink and printhead component parts requirements from Trident through Trident's OEM customers.

Check Coding. The Company's imaging subsystem is used by major reader/sorter manufacturers as an imaging module for check processing systems due to its high speed and non-contact capabilities. As a check moves though the banking process, it is stamped, date and time coded and microfilmed for record keeping purposes. Due to the high number of checks processed daily in worldwide banking systems, and the desire of each bank to minimize the "float" of each check, high speed reader/sorter machines have been developed to handle this process in a highly automated fashion.

The price and performance characteristics of the Company's technology offer OEMs a simple-to-use, easy-to-maintain device for this process. Prior to the introduction of impulse ink jet imaging systems in this market, continuous ink jet single channel systems were often used for the highest speed machines. Compared to the intricate continuous ink jet systems, the Trident design offers a less complex solution at a lower price. Many of the leading OEMs in this field have incorporated the Company's piezoelectric impulse ink jet imaging products into their reader/sorter systems, including BancTec Inc.. ("BancTec") and AT&T Corporation. Traditionally, the systems used to perform these functions were large, expensive machines typically located at regional and other central banks and utilized by local banking offices which did not invest heavily in machinery. The Company believes there will be a trend away from such systems in the future toward smaller, less expensive systems placed in local banks, which will benefit sales of the Company's products. In addition, there is a higher proportion of ink sales to printheads in this application.

Addressing and Business Forms Imprinting. The Company's OEM customers have incorporated impulse ink jet technology into low-cost, high-speed addressing systems that are used in "mail shops" throughout North America and Europe. These mail shops offer addressing as a service to direct mail advertisers which require high quality images at the lowest cost per mail piece. The automated processing of direct mail advertisements, announcements, publications and catalogs has relied for many years upon ink jet technology, principally continuous ink jet, to individually mark the name and address of a recipient on each mail piece with a high quality image. Paper labels were often used for this application prior to the introduction of ink jet. The Company's products offer significant price advantages over continuous ink jet printers. Although continuous ink jet printers currently offer higher print quality in these applications, the Company believes that its new AllWrite ink and certain of its printheads presently under development will allow it to compete more successfully with continuous ink jet printers for certain of these applications. In addition, both of these technologies are capable of printing variable data on preprinted literature and envelopes at a rate of up to 30,000 pieces per hour, applying a unique name and address directly to each piece while eliminating the need to print labels off-line. A recent industry study estimates revenues from ink jet addressing systems and consumables in 1994 have been approximately $120 million, increasing to approximately $200 million in 1999, based on end-user prices.

The Company's products are also sold to major printing companies which provide integration of various printing technologies for the production and assembly of direct mail pieces and specialized business forms, preprinted documents, mailers and envelopes along with other inserted materials which are produced and collated on-line to produce a, final, personalized mail piece.

Garment Plotting. During the production of a garment or piece of clothing, disposable paper patterns are used to define the outline of an intended garment piece, such as the sleeve of a shirt. To automate the production of these paper patterns, the Company's OEM customers have developed systems that interface with computers containing a digitalized image of the pattern. The Company's products provide critical speed and throughput by enabling the printing of a wider swath of an image when compared to pen plotting or other impulse ink jets.

Postal. The Company's subsystems are being used by "presort" shops to image bar codes onto mail pieces at high speeds. Presort shops offer sorting and bar coding of mail for larger mailers, which allow these mailers to take advantage of high volume discounts offered by the United States Postal Service. End users at the presort shops require machines that are high utility yet low in maintenance, down time and cost. The Company's subsystem offers a simple, inexpensive ink jet technology for this bar coding requirement.

More recently, the Company's systems have been sold to Cueprint Ltd. ("Cueprint"), whose customer AEG Postal Systems ("AEG") has incorporated such systems into a new product which is intended to be used in postal applications. AEG's first customer for this system is The Royal Mail in Great Britain. This system will use the Company's products for marking indicia during the cancellation of the mail piece within a postal agency's facilities. Although sales to AEG have been immaterial to date, the Company believes that significant opportunities exist for the future sale of these systems into the postal markets. There can, however, be no assurance that the Company will be successful in penetrating these new markets.

New Applications. The Company believes that the use of impulse ink jet technology for wide area printing has excellent potential for growth as ink jet technology replaces tradi-

tional processes such as screen printing, which is uneconomical for short runs because it is time consuming and expensive. The Company has also targeted the market for printing onto parts and packages, which is currently served primarily by continuous ink jet systems, by developing a low cost, simplified printhead product based on the Company's existing technology, as well as a complementary non-porous ink product. Another area, the security printing market, also has potential for growth since impulse ink jet technology can be adapted to print anticounterfeiting measures and covert codes using special proprietary inks and tracking systems.

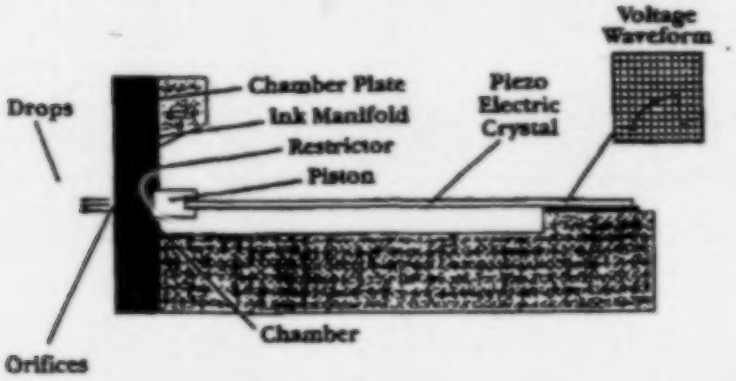
Products

General. The Company specializes in the design and manufacture of proprietary impulse ink jet imaging subsystems, including printheads, inks and other consumables and related components. To support its OEM customer, Trident also offers a comprehensive range of accessories and components, and a printhead repair service. Trident is committed to providing its OEM customers and their end-users with all of their piezoelectric impulse ink jet product and service requirements.

Ultrajet Imaging Subsystems. The Company has developed a series of imaging subsystems which are based on its proprietary impulse ink jet technology. This technology employs a piezoelectric crystal, which is a ferroelectnc ceramic material that changes shape when an electric field is applied across it. Thus, a voltage applied across two faces can cause it to grow or shrink in length, or to be distorted sideways, depending on the mode of operation selected. Trident's patented technology utilizes the piezoelectric crystal as a piston opposite the orifice through which the ink is projected onto the printing surface. A voltage waveform is smoothly increased which causes sub-micron reductions in the length of the piezoelectric crystal. This draws ink into the chamber preparing it for firing onto the printing surface. Surface ten-

sion forces in the orifice prevent air from entering the chamber, which would interfere with the printing process. Next, the voltage across the piezoelectric crystal is rapidly reduced, which allows the length of the crystal to return to its original size and create a sudden pressure pulse inside the chamber, which forces a droplet of ink out of the orifice. The process of printing each droplet takes approximately 0.0001 seconds.

Cross Section of the Tridents® Ultrajet™



One of the principal advantages of the Company's technology is that relatively large droplets can be generated at high frequencies and velocities. The high pressures generated also enable more than one orifice to be placed in each chamber, which increases the print area without adding chambers, thereby avoiding additional cost. The arrangement of the piezoelectric crystal and ink chambers found in the Company's printheads is proprietary to Trident. It enables ink droplets to be formed at frequencies as high as 10,000 droplets per second with an initial velocity of more than 10 meters per second. This enables the droplets to travel across a small gap through the air, which is an important feature in industrial marking applications where the printing surfaces are rarely flat, smooth or traveling at a fixed distance from the printhead.

The Company's printing products are modular to enable its OEM customers to order the most suitable configuration

for their system and to minimize development and production costs. The imaging subsystem consists of a printhead, tubing, cables and, at the option of the OEM, an ink reservoir and electronic driver printed circuit boards. The printheads are available in four basic orifice configurations according to the desired print height and resolution. Some configurations are also available with either stainless steel or nickel orifice plates depending on the selection of ink. The orifice plate can have either one. three, six or eight orifices for each chamber. The use of multiple orifices per chamber in a liquid impulse ink jet printhead is proprietary to Trident. The benefits are increased print area without added cost and complexity. Resolution is sacrificed in applications where print height and cost are more critical, such as bar coding, which does not require high vertical resolution. Multiple printheads may be stacked to create even taller images.

32 CHANNEL ULTRAJET™ PRINTHEAD

In the industrial market, the typical spacing between printed droplets is five to seven thousandths of an inch, which provides a resolution of 140 to 200 dots per inch. In these industrial applications, resolution greater than 200 dots per inch is generally not required, while speed and print distance are often critical. By contrast, impulse ink jet printers developed for the office and home market are required to

generate images with 300 to 600 dots per inch resolution, which creates a requirement for droplets which are substantially smaller than those produced by the Company's technology and which consequently cannot travel as far across air gaps to the printing surface. The higher resolution and smaller droplet volume typical of the printers developed for the office and home markets also reduce the printing speed when compared to the Company's printhead.

Ultrajet Imaging Subsystems			
Product Description	Number of office per channel	Total number of orifices	Print Height (inches)
Model 32/32	1	32	0.16
Model 96/32	3	96	0.48
Model 192/32	6	192	0.96
Model 256/32	8	256	1.89

The Company's imaging subsystem products are priced according to the print area (number of orifices), the type of ink and the ink reservoir. The typical prices range from $800 for the Company's least expensive imaging subsystem to $2,200 for its premium performance bar code product.

Ink Products. The Company offers six basic ink products: PostBrite, VersaPrint, FastDri, AllWrite, HiDef and JetWrite. All except PostBrite, which is an ultraviolet fluorescent ink for postal bar coding, are offered in black. The Company's VersaPrint products are also available in red, blue and green colors. Most of the Company's inks are manufactured from oil or glycol liquids and are, therefore, non-volatile and non-toxic. Two exceptions are the FastDri and AllWrite inks which are formulated for semi-porous printing surfaces and, therefore, require small quantities of volatile solvents to allow drying. The Company expects that future ink products developed for nonporous printing surfaces will require a small amount of maintenance at start-up following shut down periods of two or more hours. The carton coding market uses mainly VersaPrint and HiDef inks which are entirely non-

volatile. This property provides end-user customers with increased reliability, resulting in fewer production delays.

Product Description	Priming Surface	Comments	Package Options
JetWrite	Porous	Original black ink for cartons and banking	A. B. C. D
FastDri	Semi-porous	Original black ink for addressing non-porous mail	B. C
HiDef	Porous	Developed for improved bar codes on cartons	B. C
VersaPrint	Porous	Available in black and colors. V-300 version provides verifiable bar codes on cartons	B. C. D
PostBrite	Porous	Used for U.V. fluorescent postal bar codes	B. C
AllWrite	Semi-porous	General purpose black ink for semi porous	B

A = Cartridge B = 125 ml bottle C = 500 ml bottle D = 1 liter bottle

Accessories and Options. The Company offers a range of accessories and options to assist OEM customers in the development of systems. These are sometimes employed by OEMs only for their initial evaluation of one of the Company's products, while the OEMs develop their own version of the accessory for the final production product. Larger volume producers are generally more inclined to attempt to create their own accessories than smaller ones. Smaller companies, or companies using systems in which the accessories represent a relatively small percentage of the total system cost, are more likely to purchase these components from Trident. An OEM may also purchase equipment from Trident to repair and calibrate printheads itself, provided that it has been trained and certified by Trident.

Other Consumables and Accessories	
Printed Circuit Boards	Power Supply Driver Board Components

Ink Supply Components	Reservoir Priming Pump Manifold
Consumables	Maintenance Spray Wipe Card Flushing Solution

Sales and Marketing

The Company sells its products both domestically and internationally through OEMs and to major end users who have in-house engineering resources capable of developing a printing system utilizing the Company's products. The Company has approximately 70 active customers worldwide, of which approximately one-half currently purchase from five to several hundred printheads per month. No assurance can be given that such customers will continue to make such purchases in such volume, or at all. Several of the Company's OEM customers sell systems incorporating the Company's products worldwide, although the Company recognizes sales to the region where the products are billed. Sales are divided into three regions: North America, Europe and the Far East. Sales to these three regions were approximately $12.1 million, $3.5 million and $1.7 million in Fiscal 1995 and approximately $9.0 million, $2.5 million and $1.0 million in Combined 1994. The Company believes that international use of impulse ink jet applications currently lags behind that of the U.S. The Company expects that the North American region will continue to be the largest due to the strength of domestic OEM customers, particularly those utilizing carton coding applications. European sales are rapidly growing as use of bar codes on shipping containers is increasing and European customers are introducing the use of Trident's products to stamp cancellation. The Far East trails the rest of the world in utilization of impulse ink jet printing technologies. The Company believes, however, that the ability of systems using the Company's subsystems to print certain Asian language characters and the continuing industrialization of

Far East/Pacific Rim countries will create additional demand for the Company's products.

All of the Company's OEM customers are sub-licensed by the Company on a non-exclusive basis to use the Company's products. New customers are required to purchase an evaluation kit from the Company, which includes training on the equipment and an evaluation kit license, before the Company agrees to fully license the customer. Trident believes that this allows it to control the use of the product and to ensure that it is applied competently and professionally in the market. The Company's licenses provide for the ongoing purchase of ink from the Company and the right to use the printheads and inks as a system. The Company is aware of a small number of third-party ink manufacturers offering ink for use with some of the Company's printheads. Use of these third-party inks would be an unlicensed activity by the OEM and its end-user customer, could damage the Company's printheads and would void the warranty on such printheads. Most of the Company's inks, bottles and cartridges are currently protected by patents.

Trident, Inc.
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(103) 740.9331 Fax: (103) 775-9660

TRIDENT, INC.

SALES AND LICENSE AGREEMENT

With

PRISM, INC.

Agreement No. 101. D

EVERY TERM OF THIS AGREEMENT IS IMPORTANT.
READ EACH OF THEM CAREFULLY.

DEFINITIONS

"TRIDENT" shall mean TRIDENT, Inc.

"AGREEMENT" shall mean this Sales And License Agreement.

"BUYER" shall mean the purchaser identified below.

Other words with special meaning in this AGREEMENT, generally capitalized words, shall have the meaning detailed in the OTHER DEFINITIONS section of pages 10 and 11 of this AGREEMENT.

By signing this document, you agree to be bound by the STANDARD TERMS AND CONDITIONS OF SALES attached, which are an integral part of this form AGREEMENT. All sales of TRIDENT APPARATUS for incorporation in certain equipment assembled, used or sold by a BUYER for certain applications include royalty-free, nonexclusive, nontransferable rights under certain proprietary rights of TRIDENT. The specific equipment and applications (LICENSED PRODUCTS) for BUYER are as specified in the "LICENSE GRANT/APPLICATIONS/FIELD OF USE."

LICENSE GRANT/APPLICATIONS/FIELD OF USE (LICENSED PRODUCTS)

To manufacture, use and sell equipment employing and including ink jet printing devices supplied by TRIDENT and when used in combination with ink and ink supply systems supplied by TRIDENT which are produced under now existing Trident patents and related TRIDENT TECHNICAL INFORMATION and copyrights and mark work registrations, in LICENSED PRODUCTS for the following application(s) and field(s) of use:

Trident Product Type:	Ultrajet™ Imaging subsystems — including all COMMERCIALLY AVAILABLE configurations and sundered electronics.
Trident Ink Type:	All COMMERCIALLY AVAILABLE inks from Trident.
Application/Field of Use:	The imaging of addresses and/or coding of mail, envelopes, letters, "flat" mail, labels, newspapers and other periodicals, also imaging of packages, containers, packaging libels end bundle wraps.
Geographical Limitation:	Worldwide.

NOTE: NO LICENSE UNDER ANY FUTURE ISSUED TRIDENT PATENTS OR RELATED TECHNICAL INFORMATION OR FUTURE COPYRIGHTS OR MASK WORK REGISTRATION IS PROVIDED BY THIS AGREEMENT EXCEPT TO THE EXTENT NECESSARY TO MAKE, USE AND SELL LICENSE PRODUCTS INCORPORATING THE TRIDENT APPARATUS SUPPLIED BY TRIDENT PURSUANT TO THE TERMS THEREOF.

THIS AGREEMENT, including the STANDARD TERMS AND CONDITIONS OF SALE on page 3 through 11 of this

AGREEMENT Form constitute the entire AGREEMENT between the Parties hereto and supersedes all proposals, oral or written, and all previous negotiations and other communications between the Parties. The STANDARD TERMS AND CONDITIONS of this AGREEMENT cannot be modified or waived except in writing signed by the Parties hereto and waiver by TRIDENT or BUYER of any provision hereof in any one instance shall not constitute a waiver as to ay other instance. If a provision of this AGREEMENT is invalidated for any reason, this AGREEMENT remains binding except for such invalid provision. This AGREEMENT shall be construed in accordance with and governed by the laws of the State of Connecticut. This AGREEMENT may be signed in several counterparts each of which shall be deemed an original.

IN WITNESS WHEREOF, the Parties hereto with intent to be legally bound, have caused duly authorized personnel of their respective corporations to execute this AGREEMENT effective.

This ____ day of _____, 1999.

PRISM, INC. _____	TRIDENT, INC.
Company	
By: /s/ _____	By: /s/ _____
Title: President _____	Title: President & CEO

No additional or different terms or conditions will be binding upon TRIDENT unless specifically agreed to in writing; failure of TRIDENT to object to provisions contained in any purchase order or other communication from BUYER shall not be construed as a waiver of those terms and conditions nor an acceptance of any such provisions. This AGREEMENT and these terms and conditions shall constitute the entire AGREEMENT between TRIDENT and BUYER, and shall be governed by the laws of the State of Connecticut.

2.a. BUYER'S PRE-ORDER INSPECTION AND ACCEPTANCE

BUYER acknowledges that prior to its order It inspected the TRIDENT APPARATUS including documentation related thereto and had an adequate opportunity to test the TRIDENT APPARATUS for BUYER'S intended use, BUYER acknowledges that it accepts the TRIDENT APPARATUS for BUYER'S intended use.

2.b. JETWRITE, HIDEF, AND VERSAPRINT WARRANTY AND REPAIRS

TRIDENT APPARATUS, including TRIDENT CONSUMABLE SUPPLIES, for a period of one (l) year from the date of Shipment thereof by TRIDENT, under normal use and service, and when employed in accordance with TRIDENT'S TECHNCAL INFORMATION, will be free from defects to materials and workmanship. TRIDENT will, without charge, within thirty (30) working days of receipt of the defective TRIDENT APPARATUS, repair or replace, at its sole option the TRIDENT APPARATUS or parts (normal wear and tear [cut off]

* * *

Trident, Inc.
1114 Federal Road
Brookfield, CT. 06804
(203) 744-9333 Fax: (203) 773-9660

ACCEPTANCE OF THIS ORDER IS CONDITIONED ON
YOUR ASSENT TO THIS ENTIRE AGREEMENT

STANDARD TERMS AND CONDITIONS OF SALES

1. OFFER; GOVERNING PROVISIONS
This writing constitutes an offer by TRIDENT to sell the products and/or services described on page one in accordance with these terms and conditions, and is expressly conditioned upon assent to these terms and conditions.

No additional or different terms or conditions will be binding upon TRIDENT unless specifically agreed to in writing; failure of TRIDENT to object to provisions contained in any purchase order or other communication from BUYER shall not be construed as a waiver of those terms and conditions nor an acceptance of any such provisions. This AGREEMENT and these terms and conditions shall constitute the entire AGREEMENT between TRIDENT end BUYER, and shall be governed by the laws of the State of Connecticut.

2.a. BUYER'S PRE-ORDER INSPECTION AND ACCEPTANCE
BUYER acknowledges that prior to its order it inspected the TRIDENT APPARATUS including documentation related thereto and bad an adequate opportunity to test the TRIDENT APPARATUS for BUYER'S intended use. BUYER acknowledges that it accepts the TRIDENT APPARATUS for BUYER'S intended use.

2.b. JETWRITE™, HIDEF™, AND VERSAPRINT™ WARRANTY AND REPAIRS

TRIDENT APPARATUS, including TRIDENT CONSUMABLE SUPPLIES, for a period of one (l) year from the date of shipment thereof by TRIDENT, under normal use and service, and when employed in accordance with TRIDENT'S TECHNICAL INFORMATION, will be free from defects to materials and workmanship. TRIDENT will, without charge, within thirty (30) working days of receipt of the defective TRIDENT APPARATUS, repair or replace, at its sole option the TRIDENT APPARATUS or parts (normal wear and tar excluded) which are determined to be defective within the warranty period and which are returned to TRIDENT freight prepaid, F.O.B. factory of origin (or other TRIDENT repair facility as may be designated by TRIDENT), provided the TRIDENT APPARATUS or part thereof has not been damaged, subjected to excessive duty cycle, misuse or abnormal operation, or altered or improperly installed, repaired or maintained by BUYER or others in a manner which TRIDENT reasonably determines to have adversely affected performance or reliability. In the event that TRIDENT APPARATUS returned under warranty is in good working order or evidence of ink not supplied by TRIDENT, is found in the TRIDENT APPARATUS, a sixty dollar ($60) evaluation fee will be charged to BUYER by TRIDENT.

2.c. FASTDRI™ WARRANTY AND REPAIRS

TRIDENT APPARATUS, including TRIDENT CONSUMABLE SUPPLIES, for a period of 270 days from the date of shipment thereof by TRIDENT, under normal use and service, and when employed in accordance with TRIDENT'S TECHNICAL INFORMATION, will be free from defects to materials and workmanship. TRIDENT will, without charge, within thirty (30)

working days of receipt of the defective TRIDENT APPARATUS, repair or replace, at it: sole option the TRIDENT APPARATUS or parts (nor wear and tear excluded) which are determined to be defective within the warranty period and which are returned to TRIDENT freight prepaid, F.O.B. factory of origin for other TRIDENT repair facility as may be designed by TRIDENT), provided the TRIDENT APPARATUS or part thereof has not been damaged, subjected to excessive duty cycle, misuse or abnormal operation, or altered or improperly repaired or maintained by BUYER, or others in a manner which TRIDENT reasonably determines to have adversely affected performance or reliability. In the event that TRIDENT APPARATUS returned under warranty is in good working order or evidence of ink not supplied by TRIDENT found is the TRIDENT APPARATUS, a sixty dollar ($60) evaluation fee will be charged to BUYER by TRIDENT.

THE ABOVE WARRANTY DOES NOT COVER TRIDENT INK JET PRINTING DEVICES REPAIRED, REFURBISHED OR OTHERWISE DISASSEMBLED BY PERSONS NOT CERTIFIED BY TRIDENT IN A MANNER SO AS TO BREACH THE FLUID PATH OR DAMAGE TO TRIDENT INK JET PRINTING DEVICES CAUSED BY THE USE OF INK OR SPARE PARTS NOT SUPPLIED BY TRIDENT OR DAMAGE TO TRIDENT INK JET PRINTING DEVICES CAUSED BY FAILURE TO USE TRIDENT AUTHORIZED PROCEDURES AND PROCESSES.

Warranty claims hereunder must be made promptly in Writing, stating the nature and date of the failure, the TRIDENT APPARATUS serial number, if applicable, sad mutt be received by TRIDENT within the applicable warranty period. Notification by telex or facsimile is an acceptable form of notification for those failures that occur during the later stages of the warranty period.

The above warranty extends solely to BUYER and all warranty claims must be made by BUYER and not by customers or other successors of BUYER. Repair or replacement of parts or TRIDENT APPARATUS shall neither extend nor decrease the original warranty period.

2.d. LIMITATION OF TRIDENT'S LIABILITY: DISCLAIMERS

TRIDENT'S liability is limited to and BUYER'S sole and exclusive remedy for breach of warranty shall be the repair or replacement of the defective TRIDENT APPARATUS or part and does not include any labor related to the subsequent installation thereof. TRIDENT APPARATUS or parts repaired or replaced by TRIDENT will be shipped to BUYER F.O.B. destination, freight prepaid within the continental United States (F.O.B. TRIDENT'S factory, freight collect, outside the continental United States).

DISCLAIMER OF IMPLIED WARRANTIES

THE EXPRESS WARRANTIES MADE IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY.

2.e. EXCLUSION OF CONSEQUENTIAL DAMAGES AND LIMITATION OF OTHER LIABILITIES; BUYER'S INDEMNITY

TRIDENT'S liability with respect to breaches of warranty shall be limited as provided in paragraph 2 hereof. With respect to other breaches of the AGREEMENT, TRIDENT'S liability shall in no event exceed the contract price. TRIDENT SHALL NOT BE SUBJECT TO AND DISCLAIMS: (I) ANY OTHER OBLIGATIONS OR LIABILITIES ARISING OUT OF BREACH OF CONTRACT OR OF WARRANTY

(2) ANY OBLIGATIONS WHATSOEVER ARISING FROM TORT CLAIMS INCLUDING NEGLIGENCE AND STRICT LIABILITY OR ARISING UNDER OTHER THEORIES OF LAW WITH RESPECT TO GOODS SOLD OR SERVICES RENDERED BY TRIDENT, OR ANY UNDERTAKINGS, ACTS OR OMISSIONS RELATING THERETO, AND (3) ALL CONSEQUENTIAL, INCIDENTAL AND CONTINGENT DAMAGE WHATSOEVER. Without limiting the generality of the foregoing, TRIDENT specifically disclaims any liability for penalties (including administrative penalties) special or punitive damages, damages for lost profits or revenues, loan of use of goods or any associated equipment, cost of capital, facilities or services, downtime, shut-down or low-down costs, or for any other types of economic loss. All the limitations and disclaimers contained in this paragraph sad in the rest of this AGREEMENT shall apply to claims of BUYER'S customers or any third party as well as to claims of BUYER. Unless this AGREEMENT is amended, BUYER understands that be is foregoing the possibility of, among other things, recovery from TRIDENT of tort liability. BUYER shall indemnify TRIDENT against any said all losses, liabilities, damages and expenses (including, without limitation, attorneys' fees and other costs of defending any action) which TRIDENT may incur as a result of any claim by BUYER or others arising out of or in connection with the goods or services sold hereunder and based on goods or service defects not proven to hive been caused solely by TRIDENT'S negligence. BUYER understands and agree that the sole and exclusive remedies for breach of any and all warranties and the sole remedies for TRIDENT'S liability of any kind including liability for negligence with respect to the TRIDENT APPARATUS or related spare parts or service covered by Ibis AGREEMENT and all other per-

formance by TRIDENT under or pursuant to this AGREEMENT shall be limited to the remedy of repair or replacement as provided herein.

3. LICENSES ANDASSIGNMENT

The license identified in the LICENSE GRANT/APPLICA-TIONS/FIELD of USE on page 1 to BUYER is royalty-free, nonexclusive and nontransferable. The License and rights granted to BUYER hereunder to make, use and sell LICENSED PRODUCTS shall also extend to any customer of BUYER purchasing or otherwise acquiring the LICENSED PRODUCT from BUYER but only with respect to the particular LICENSED PRODUCT so purchased or acquired from BUYER. BUYER hereby agrees to assign to TRIDENT all of its interest in any proprietary rights including inventions and resulting patents and patent applications and CONFIDENTIAL TECHNICAL INFORMATION comprising improvements in or technology relating to the TRIDENT APPARATUS.

No rights or licenses, expressed or implied, are granted hereunder except those expressly set forth herein. Without in any way modifying the foregoing express limitation, BUYER expressly acknowledges and agrees that no right or license is granted hereunder in connection with rotary printing or the use of the TRIDENT APPARATUS in any rotary printing device or for any rotary printing application. As used herein, the term "rotary printing" shall mean a printing system wherein a sheet of paper is printed upon by means of a rotating print head which has a number of ink jets located about set axis, and wherein the surface of the paper which is to be printed upon is generally curved around the print head, and wherein the axis about which the paper is curved lies generally in the same direction as the axis about which the ink jets are located.

4.a. INTELLECTUAL PROPERTY INFRINGEMENT — TRIDENT'S BASIC OBLIGATION — BUYER'S OBLIGATION TO PROVIDE NOTICE AND TO ASSIST

TRIDENT agrees, at its own expense, to defend BUYER in any suit, claim or proceeding brought against BUYER alleging that TRIDENT APPARATUS purchased by BUYER from TRIDENT infringes a patent, copyright, mask work registration or trade secret right of another PROVIDED, however, that BUYER (a) promptly after BUYER learns of any such suit, claim or proceeding, notifies TRIDENT, in writing, of such suit, claim or proceeding, such that TRIDENT received written notice within ten (10) days of BUYER'S first learning of any such suit, claim or proceeding; (b) gives TRIDENT full information and assistance (at BUYER'S expense) required for TRIDENT to defend such suit, claim of proceeding, and (e) allows TRIDENT at TRIDENT'S expense, to direct the defense including selection of counsel sad negotiation of any settlement,

BUYER AGREES THAT FAILURE TO GIVE THE NOTICE DESCRIBED HEREIN WITHIN THE TIME STATED OR TO GIVE THE DESCRIBED ASSISTANCE MEANS THAT TRIDENT WILL HAVE NO OBLIGATION TO DEPEND BUYER AGAINST ANY SUIT, CLAIM OR PRECEDING. Further, TRIDENT agrees to pay any Judgment, rendered in such suit by final judgment of a court of last resort.

4.b. LIMITATION OF TRIDENT'S OBLIGATION

Notwithstanding anything in this AGREEMENT, TRIDENT shall have no liability to indemnify BUYER in any suit, claim or proceeding brought against BUYER in which the alleged infringement is based upon the making, using or selling of any assembly of which the TRIDENT APPARATUS is a part and does

not, by itself directly infringe, or where the alleged infringement is based upon modification of the TRIDENT APPARATUS as originally supplied by TRIDENT, or where the alleged infringement is based upon the tasking, using or selling, in conjunction with TRIDENT APPARATUS, of equipment or material not provided by TRIDENT.

4.c. TRIDENT NEED NOT REPLACE ENJOINED TRIDENT APPARATUS

BUYER AGREES THAT TRIDENT HAS NO OBLIGATION TO PROVIDE NON-INFRINGING REPLACEMENT FOR ANY ENJOINED TRIDENT APPARATUS OR TO OBTAIN A LICENSE TO INSURE BUYER'S CONTINUED USE OF ANY ENJOINED TRIDENT APPARATUS.

4.d. BUYER'S RESPONSIBILITY

With respect to any other claim, suit or action for infringement of patents, copy rights [sic], mask work protection certificate or trade secret rights brought against BUYER, which claim, suit or action results from BUYER'S making, using, and selling the LICENSED PRODUCT, BUYER shall at its own expense defend any such claims, suits or actions, and at its own expense pay any damages or other sums which may be assessed or may become payable under any final decree or judgment in any such claim, suit or action or under any settlement thereof.

4.e. BUYER'S RESPONSIBILITY TO TRIDENT

BUYER shall, at its own expense, defend TRIDENT in any claim, suit or proceeding brought against TRIDENT alleging that (i) the LICENSED PRODUCT or changes, modifications or enhancements made by BUYER to TRIDENT APPARATUS or to TRIDENT'S TECHNICAL INFORMATION, or (ii) any item excluded from TRIDENT'S obligation to indem-

nify set forth in the first paragraph of this paragraph 4, infringes any patent or copyright or trade secret of mask work registration or other proprietary-right of any third party. BUYER shall pay any judgment against TRIDENT rendered by the final judgement of a court of last resort based upon any such allegation(s) in such suit or proceeding, provided that TRIDENT (i) promptly notifies BUYER in writing of any such claim and gives BUYER the opportunity to defend or settle any such claim at BUYER'S expense and (ii) cooperates with BUYER, at BUYER'S expense, in defending or settling such a claim.

4.f. TRIDENT NOT RESPONSIBLE FOR CERTAIN KINDS OF DAMAGE

TRIDENT SHALL IN NO EVENT BE RESPONSIBLE OR LIABLE FOR CONSEQUENTIAL, SPECIAL, INDIRECT OR PUNITIVE DAMAGES. THE FOREGOING STATES THE ENTIRE LIABILITY OF TRIDENT AND BUYER WITH RESPECT TO INTELLECTUAL PROPERTY INFRINGEMENT.

5. EXCUSED PERFORMANCE

Neither party shall be responsible to the other for failure to perform any of the obligations (other than the obligations to pay money) imposed by this AGREEMENT, provided such failure shall be occasioned by fire, flood, explosion, lightning, windstorm, earthquake, subsidence, of soil, failure or destruction; in whole or in part, of machinery or equipment, discontinuity in the supply of power, governmental interference, civil commotion, riot, war, strikes, labor disturbance or by any cause beyond the reasonable control of the party in question.

6. CONFIDENTIALITY

BUYER agrees to maintain TRIDENT'S CONFIDENTIAL TECHNICAL INFORMATION (including

but not limited to data, plans, specification, designs and drawings) in confidence from the time of disclosure, and to use reasonable efforts to prevent the disclosure thereof to others including AFFILIATES except (a) in confidence on a need-to-know basis, (b) only to individuals and entitles which have agreed in writing to maintain such CONFIDENTIAL TECHNICAL INFORMATION in confidence, and (c) only to the extent necessary for BUYER to make, use and sell LICENSED PRODUCTS. With respect to the above, TRIDENT agrees to supply BUYER with and allow the BUYER to use such technical information as is necessary to enable BUYER to produce BUYER'S technical manuals for LICENSED PRODUCT. However, no CONFIDENTIAL TECHNICAL INFORMATION of TRIDENT may be incorporated in the manuals.

7. TERMS OF PAYMENT

Invoices for TRIDENT APPARATUS shall be rendered upon shipment. Payment of these and all other invoices shall be made in full thirty (30) days from date of invoice paid in U.S. dollars drawn on a U.S. bank and TRIDENT may, at its option, require that such payments be secured by letters of credit. Any payment not made on or before its due day will be subject to any annual interest charge of the lesser of (a) eighteen percent (18%), (b) one percent (1%) above the average of the daily prime rate of Citibank N.A. (New York), or (c) the maximum rate permitted by law.

8. PRICES

All prices quoted are subject to change, with ninety (90) days notice in writing. If there is a delay in completion of shipment of BUYER'S order, due to any change requested by BUYER or as a result of any delay on BUYER'S part in furnishing information re-

quired for completion of the order, the price in effect at time of acceptance of order is subject to the change.

9. SHIPPING, DELIVERY AND PACKAGING

All prices are F.O.B. TRIDENT'S shipping dock. The mode of transportation shall be designated by BUYER and may be revised by written notices received by TRIDENT at least ten (10) working days prior to the scheduled delivery date. Purchase Orders without specific shipping instructions will be transported consistent with the nature of the equipment and the hazards of transportation of the material.

BUYER agrees that shipments shall be taken in accordance with the delivery schedule TRIDENT quotes to BUYER. The lead times specified and the delivery schedule quoted by TRIDENT are the best estimate possible, based on current and anticipated factory loads, of when TRIDENT APPARATUS will be shipped. TRIDENT assumes no liability for loss, damage or consequential damage due to delays.

The prices specified include cost of commercial packaging adequate for shipment by air or land surface carriers. Special packaging required by BUYER for shipment by other modes shall be quoted by TRIDENT on request.

10. TAXES

TRIDENT'S prices for TRIDENT APPARATUS are exclusive of any applicable sales, use or excise taxes or other charges levied by any governmental authority and shall be separately itemized on TRIDENT'S invoice and paid by BUYER unless BUYER furnished TRIDENT a properly completed exemption certificate or such other evidence prescribed by the appropriate taxing authority as proof of exemption from such taxes.

11. TITLE/RISKS

All TRIDENT APPARATUS shall be shipped F.O.B. TRIDENT'S shipping dock, freight collect Title shall pass to BUYER at the F.O.B. point which will be TRIDENT'S shipping dock. Not withstanding the foregoing, until title passes to BUYER, TRIDENT agrees to maintain TRIDENT APPARATUS in good operating condition. BUYER assumes all risk of loss or damage while the equipment is in the BUYER'S possession, including without limitation, risk of loss in transit from TRIDENT'S facilities. TRIDENT may request, and BUYER shall provide TRIDENT with evidence of appropriate insurance coverage.

12. EFFECTIVE DATE. TERMINATION AND RESCHEDUING/CANCELLATION

The "Effective Date" of this AGREEMENT shall be the date indicated on page 2. This AGREEMENT may be terminated by either Party at any time if the other Party has substantially breached any material provision contained in this AGREEMENT and this breach has not been cured within thirty (30) days of receipt of written notice thereof.

BUYER may reschedule or cancel, in whole or part, any order issued hereunder and accepted by TRIDENT at any time prior to shipment provided that written notice is received by TRIDENT. In the event of such scheduling or cancellation, BUYER agrees to pay an amount equal to the appropriate level noted in the table provided TRIDENT has no other acceptable option for this rescheduled or canceled TRIDENT APPARATUS within a reasonable period of time. An order can be rescheduled no more than twice for a cumulative period not to exceed ninety (90) days.

Number of Days Prior to Scheduled Shipment That Notice is Received by TRIDENT	Reschedule Charge	Cancellation Charge
180 and over	0	0
120 – 179	0	10%
90 – 119	0	20%
5 – 89	5%	40%
0 – 4	5%	60%

13. POST-ORDER INSPECTION AND ACCEPTANCE

BUYER may conduct; at its own expense, incoming acceptance tests to confirm that each TRIDENT APPARATUS passes an acceptance test for such Apparatus as set forth in TRIDENT'S TECHNICAL SPECIFICATIONS. Acceptance testing of the TRIDENT APPARATUS shall be completed prior to any modification and/or reconfiguration of the same by BUYER. It shall be BUYER'S responsibility to assure that TRIDENT APPARATUS is fit for BUYER'S particular purpose and meets BUYER'S particular needs and expectations and that changes made to TRIDENT APPARATUS do not effect the Apparatus' performance to specification. The period for conducting such tests shall conclude thirty (30) days after receipt of each TRIDENT APPARATUS, or after 100 equipment operational hours (the "Acceptance Period"), whichever occurs first, and all TRIDENT APPARATUS shall be deemed accepted unless written notice of acceptance test failure is provided to TRIDENT within the Acceptance Period. Payment shall not be construed as acceptance.

14. OEM CERTIFICATION

BUYER represents that the TRIDENT APPARATUS purchased hereunder will be utilized by BUYER only in the assembly, and as a constituent part, of a LICENSED PRODUCT assembled by BUYER and supplied for sale or, lease, to third parties in the regular course of BUYER'S business. This representation is

made for the purpose of enabling TRIDENT to determining prices applicable to this AGREEMENT.

15. RETURNS
TRIDENT APPARATUS sold to BUYER under the terms of this AGREEMENT should not be returned for any reason without authorization and packing instructions.

16. TRAINING AND TECHNICAL SUPPORT
TECHNICAL SUPPORT from TRIDENT to BUYER may be charged at the then prevailing hourly rate. All costs of the support personnel's travel and living expenses during the first two (2) days and thereafter shall be charged to BUYER. The current hourly rate is $120.00 per hour and/or $880.00 per day and the increase, if any, to a prevailing rate at the time BUYER requests TECHNICAL SUPPORT will be consistent with TRIDENT'S actual cost for providing such service and with industry practice.

17. ASSIGNMENT
This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Either party may assign this AGREEMENT without prior approval to any of its AFFILIATES, but otherwise neither party may assign this AGREEMENT or say obligation hereunder without the express written consent of the other party, which consent shall not be unreasonably withheld; any such assignment to which written consent is not given shall be void, except as assignment pursuant to consolidation, merger, or in connection with the transfer of all or substantially all of its assets or business relating to ink jet printing document processing devices, in which event the consent of the other patty shall not be required.

18. INCORPORATION

Any clause required to be included by TRIDENT or BUYER in a contract or AGREEMENT of this type by any applicable law or administrative regulation having the effect of law shall be deemed to be incorporated herein.

19. SUPPLY ASSURANCE

TRIDENT will supply and BUYER will purchase ink jet printing devices and all of BUYER'S requirements for ink, ink supply systems and special integrated circuits of the type presently used by TRIDENT in its ink jet printer driver boards for use with ink jet printing devices supplied by TRIDENT and all parts therefore so as to assure availability and the proper operation of the ink jet devices for a period of five (5) years from the date hereof. However, TRIDENT'S obligation to supply is conditioned on the purchase of at least 50 ink jet Imaging Subsystems per year with no more than two orders to reach such a quantity, and that: 1) TRIDENT has not been declared bankrupt, insolvent nor engaged in proceedings under the bankruptcy laws or 2) TRIDENT is unable to produce product because of a natural or accidental disaster, war or other national emergency.

20. OTHER DEFINITIONS

"LICENSED PRODUCT" Shall mean the equipment made, used or sold by BUYER described in the LICENSE GRANT/APPLICATIONS/FIELD OF USE on page one, for use in applications described therein, employing and including ink jet printing devices supplied by TRIDENT when used in combination with ink and ink supply systems supplied by TRIDENT,

"PATENT RIGHTS" shall mean all United States and foreign patents and patent applications owned or controlled by TRIDENT or assigned by BUYER to TRI-

DENT or licensed by TRIDENT with rights to grant sublicenses, and all divisions, continuations, continuations-in-part; and reissues or extensions thereof, now or hereafter obtained to the extent, and only to the extent, that they or the claims thereof cover one or more features of LICENSED PRODUCT and excluding patents, patent applications and claim thereof that cover items purchased hereunder including supplies and consumables.

"TRIDENT'S TECHNICAL INFORMATION" shall mean design, use, operating end assembly information and know-how (written or otherwise) relating to LICENSED PRODUCT, including changes, enhancements, and improvements relating thereto, whether copyrighted or not which TRIDENT possesses during the term of this AGREEMENT, insofar as necessary or useful to BUYER in manufacture, use, test, installation, maintenance, or operation of LICENSED PRODUCTS.

"CONFIDENTIAL TECHNICAL INFORMATION" shall mean any and all of TRIDENT'S Technical Information disclosed, directly or indirectly, to BUYER by TRIDENT or its AFFILIATES, heretofore or hereafter under this AGREEMENT, or assigned by BUYER to TRIDENT, which information shall be marked or indicated "Confidential," except:

(a) technical information which at the time of its disclosure was in the public domain;

(b) technical information which after disclosure become part of the public domain by publication or otherwise through no fault of BUYER or its AFFILIATES (but only after and only to the extent that, it is published or otherwise becomes part of the public domain);

(c) technical information which BUYER can show was in its possession or its AFFILIATE'S possession at the time of disclosure and was not acquired, directly or indirectly, from TRIDENT or its AFFILIATES or from a third party under an obligation of confidence; and

(d) technical information which BUYER can show was received by it or its AFFILIATES after the time of disclosure from a third party who did not require BUYER or its AFFILIATE as the case may be, to hold it in confidence and who did not acquire it, directly or indirectly, from the disclosing party or its AFFILIATES under an obligation of confidence.

"AFFILIATE" as used in this AGREEMENT is connection with a designated company shall mean any company of which the designated company now or hereafter owns or controls, directly or indirectly, fifty percent (50%) or more of the stock having the right to vote for directors thereof. For the purpose of this definition, the stock owned or controlled by a particular company shall be deemed to include all stock owned or controlled, directly or indirectly; by any other company of which the particular company owns or controls, directly or indirectly, fifty percent (50%) or more of the stock having the right to vote for directors thereof.

"TECHNICAL SUPPORT" shall mean TRIDENT'S providing limited technical assistance to BUYER for the purpose of educating BUYER in the use, operation and assembly of LICENSED PRODUCT.

"TRIDENT APPARATUS" shall mean any one or a combination of the "ink jet printing devices," "ink," "ink supply systems," "ink jet printer driver boards," parts therefore including "special integrated circuits" and "TRIDENT CONSUMABLE SUPPLIES" manu-

factured and/or sold by TRIDENT as of the date of this AGREEMENT.

"TRIDENT CONSUMABLE SUPPLIES" shall mean one or a combination of the "ink," "containers for ink," "wipe cards," "cleaning materials," "maintenance materials" and other consumables manufactured and/or sold by TRIDENT as of the date of this AGREEMENT.

"TRIDENT'S TECHNICAL SPECIFICATION" shall mean TRIDENT'S TECHNICAL SPECIFICATIONS for OEM Ink Jet Assembly in effect as of the date of this AGREEMENT.

"COMMERCIALLY AVAILABLE" shall mean any products offered by TRIDENT that are available for general sale to all customers. These items are published in TRIDENT'S standard OEM pricing catalog, including various inks, Imaging Sub-systems, electronics, spare parts and the like. This pricing catalog is revised from time to time to include new product offerings.

EDWARD F. O' CONNOR, ESQ. (S.B. 123, 398)
JAN P. WEIR, ESQ., (S.B. 106,652)
STRADLING YOCCA CARLSON & RAUTH
A Professional Corporation
660 Newport Center Drive, Suite 1600
Newport Beach, CA 92660-6422
Telephone: (949) 725-4000
Fax: (949) 725-4100

Attorneys For Plaintiff and Counterdefendant
INDEPENDENT INK, INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

INDEPENDENT INK, INC., a California corporation Plaintiff, vs. TRIDENT, INC., believed to be a Connecticut corporation; and Does 1 through 50, DEFENDANTS.	No. CV98-6686 NM (CWx) **SUPPLEMENTAL DECLARATION OF BARRY BRUCKER IN SUPPORT OF INDEPENDENT'S REPLY TO TRIDENT'S OPPOSITION TO INDEPENDENT'S MOTION FOR SUMMARY JUDGMENT OF NON-INFRINGEMENT OF U.S. PATENT NO. 5,343,226 AND ANTITRUST VIOLATION**
TRIDENT, INC., a Connecticut corporation Counterclaimant, Independent Ink, Inc., a California corporation, and DOES 1 through 10 Counterdefendants.	DATE: August 28, 2000 TIME: 10:00 a.m. Hon. Nora M. Manella

I Barry Brucker hereby declare as follows:

1. I have personal knowledge of the facts set forth in this declaration and if called upon can and will testify to them in a court of law.

2. The attached Exhibit 1 Titled "CUSTOMER INFORMATION BULLETIN" #101 "TRIDENT AGREEMENT WITH MICROPORE" from TRIDENT INC., *to its customers*. Was maintained as a part of our business records at Independent Ink. It states in the second to the last paragraph:

> "We hope that this provides you with a clear understanding. Please note. *In particular, that under no circumstances does anyone other than Trident have any License or rights to supply you with ink for Trident products.*"

(Emphasis supplied except as to "anyone" which is emphasized in the original.)

3. This paragraph addressed to Trident's customers by Trident in this information bulletin is a clear indication of Trident's intent to prevent any other supplier from supplying ink to Trident's customers using Trident products which include their Patented printheads and containers.

4. The license agreement between Trident and its customers which was attached to my previous declaration, is also maintained as part of the business records of Independent Ink, Inc.

5. The damage to competition is dramatic. End users pay up to $325.00 per bottle for Trident inks and replacement bottles. By contrast our refill cost to end users is $125-$189 per bottle.

I declare under penalty of perjury of the laws of the State of California as well as under the laws of the United States of America that the statements contained herein are true and correct.

DATE: 7-16-2000

/S/ BARRY BRUCKER
Barry Brucker

Exhibit 1

* * *

Trident, Inc.
1111 Federal Road
Brookfield, CT 0680-1140
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December 27, 1994

CUSTOMER INFORMATION BULLETIN #101

TRIDENT AGREEMENT WITH MICROPORE

The purpose of this bulletin is to explain and clarify the current relationship between Trident, Inc. and Micropore; Inc. for the supply of inks previously purchased from Porelon.

Micropore, Inc. purchased Porelon, Inc.; from Johnson Worldwide Associates in June 1994, Prior to the divestiture of Porelon by Johnson Worldwide Associates, Porelon supplied Trident with several of our most popular inks in bulk quantity. Trident repackaged these inks for sale to our customers. The ink formulations were developed by Trident, and Porelon acted as a vendor in this arrangement.

The current arrangement is as follows:

- Trident will purchase from Micropore those inks that were previously purchased in bulk from Porelon, and;

- Micropore has the right of first refusal to supply other Trident inks with a certain minimum anticipated volume, at a competitive price,

- Micropore cannot sell or make ink, directly or indirectly, for Trident's customers anywhere in the world.

- Micropore has no rights to Trident inks other than to manufacture bulk ink under the conditions defined above. Trident packages and labels these inks into bottles and cartridges at our Brookfield, Connecticut facility.

We hope that this provides you with a clear understanding. Please note, in particular, that under no circumstances does anyone other than Trident have any license or rights to supply you with ink for Trident products.

We also request anyone; finding ink being sold as "Trident compatible" by companies other than Trident and its customers, to provide details and samples to Trident so that we can evaluate the product for potential patent infringement and incompatibility.

* * *

I INTRODUCTION

This is a motion for summary judgment of illegal patent tying based upon the agreements entered into between Defendants Trident/ITW and their customers. The case against Trident/ITW has many facets, and Independent believes it can successfully move for summary judgment on many of the various causes of action it is asserting. The present motion is directed to only one of those grounds. This motion raises essentially only an issue of law. The contracts are either illegal patent tying or they are not. Independent believes that if its motion is granted, this case will be much more clearly defined and much easier to either resolve or settle.

As a precondition to purchasing and selling Trident/ITW's patented system and obtaining a license under those patents, Trident/ITW's customers are only allowed to sell ink purchased from Trident/ITW. This is illegal patent tying. Because the licenses also extend to any customer of Trident/ITW, the end users are also prohibited from using ink which does not come from Trident/ITW.

As the Court may recall from the Markman hearing, this is a case wherein the defendants Trident and ITW manufacture a patented piezoelectric ink jest print head system which is then sold to original equipment manufacturers (OEMs) who incorporate the print head system into printers for use in printing bar codes on craft paper. The printers are then sold through a network of distributors to end users who are generally large manufacturing concerns such as Proctor & Gamble. Trident/ITW also manufacture "consumables" for use with these printers. The primary consumable is specially formulated ink.

The consumables are a significant portion of Trident/ITW's revenue stream and accordingly, Trident/ITW have engaged in a comprehensive scheme or program to pre-

vent others from selling ink for use in their patented system. They refer to these other ink manufacturers as "pirates".

Trident/ITW have made no secret of the fact that they will take whatever action is necessary to protect this all important revenue stream from the sale of their ink. This includes enforcing the illegal tying contracts through threats of litigation.

Trident/ITW's OEMs are also potential customers of Independent. The agreements prohibit the OEMs from purchasing ink from Independent or any other third party source. A number of OEMs have complained about the fact that they were at a substantial disadvantage because they could not buy ink from Defendants at Defendants' prices and then sell in competition with "ink pirates". Several OEMs' complained about being restricted from buying ink from other sources and having to buy all their supplies from Defendants, and some have expressed a specific desire to purchase from third parties.

All of these facts will be developed in this memorandum.

II. TRIDENT/ITW'S OEM AGREEMENTS ARE PATENT TYING AGREEMENTS AND PER SE VIOLATIONS OF THE ANTITRUST LAWS.

It has long been the law in this country, as clearly enunciated by the Supreme Court on numerous occasions, that it

* * *

* * *

Number 8 — Independent lank did not attempt to prevent Defendants from discovering Independent Ink's evidentiary basis for claiming that Defendants had market power. Defendants attempted to define the market as the sales of all commercial ink jet ink. It is clear that the relevant market, for purposes of this lawsuit, is a particular type of commercial ink, ink to be used in conjunction with Defendants' patented print ad system. Accordingly, sales of all commercial inks are not the relevant market and such a question is irrelevant to the issues in this lawsuit.

Number 9 — Mr. Strong was not presented as an antitrust analysis. He was a damage expert. Relevant market is an issue of law in this case, and has been well established, is presumed.

Number 10 — Mr. Strong did not testify that he did not perform a proper antitrust analysis. He did not perform an antitrust analysis at all. He was a damage expert.

Number 29 — This is another example of Defendants' attempt to mislead the Court. The complete interrogatory answer does not simply state that evidence to support its allegations would be determined and presented at the appropriate time. The first part of the response is an objection based on the fact that the interrogatory calls for a legal conclusion. If Defendants did not agree with this response, they had an opportunity to pursue this with the Magistrate as a discovery dispute. What is presently before the Court is not a discovery dispute, it is a Motion for Summary Judgment.

Number 30 — This statement is a complete mischaracterization of the deposition testimony. In the first

* * *

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Attorneys for defendant Trident, Inc.
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Illinois Tool Works, Inc.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

INDEPENDENT INK, INC., a California corporation Plaintiff, vs. ILLINOIS TOOL WORKS, INC., a Delaware corporation; TRIDENT, INC., a Connecticut corporation, and DOES 1 THROUGH 50, Defendants.	Case No. CV 98-6686-NM (CWx) Honorable Nora M. Manella **DECLARATION OF LAURA A. WYTSMA IN SUPPORT OF DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT ON INDEPENDENT INK, INC.'S SECOND AND THIRD CLAIMS FOR ANTITRUST VIOLATION**
ILLINOIS TOOL WORKS INC., a Delaware corporation, Counterclaimant, vs. INDEPENDENT INK, INC., a California corporation, and ROES [sic] 1 THROUGH 10, Counterdefendants.	Date: January 28, 2002 Time: 10:00 a.m. Ctrm: 11, Hon. Nora M. Manella **ATTORNEYS' EYES ONLY INFORMATION SUBJECT TO PROTECTIVE ORDER**

I, Laura A. Wytsma, declare as follows:

1. I am an attorney duly licensed to practice law before this Court and the Courts of the State of California. I am an attorney with the law firm of Sonnenschein Nath & Rosenthal, attorneys of record for defendant Trident, Inc. ("Trident") and defendant and counterclaimant Illinois Tool Works, Inc. ("ITW") (collectively "Defendants"), in this action. I have personal knowledge of the facts set forth herein, except for those matters stated on information and belief which I believe to be true. If called, I could and would competently testify thereto, under oath.

2. On January 17, 2001, Independent Ink, Inc. ("Independent") filed its fourth amended complaint in this action. A true and correct copy of Independent's Fourth Amended Complaint is attached hereto as Exhibit A.

3. On May 24, 2001, Defendants deposed Independent's damages expert, George G. Strong, Jr. A true and correct copy of the relevant excerpts from Mr. Strong's deposition transcript is attached hereto as Exhibit B.

4. A true and correct copy of Independent's Responses to ITW's First Set of Requests for Admissions, served on April 25, 2001, is attached hereto as Exhibit C.

5. A true and correct copy of Independent's Responses to ITW's First Set of Special Interrogatories, served on April 9, 2001, is attached hereto as Exhibit D.

6. On April 19 and 20, 2001, Defendants deposed Nora Valdez, an employee of Independent. A true and correct copy of the relevant excerpts from Ms. Valdez's deposition transcript is attached hereto as Exhibit E.

7. On July 24, 2000, Trident deposed Independent's President, Barry Brucker. A true and correct copy of the relevant excerpts from Mr. Brucker's deposition transcript is attached hereto as Exhibit F.

8. On July 25, 2000, Trident deposed Independent's Rule 30(b)(6), Fed.R.Civ.P., witnesses, Barry Brucker and Ranganathan NK. A true and correct copy of the relevant excerpts from Independent s July 25, 2000, 30(b)(6) deposition transcript is attached hereto as Exhibit G.

9. On July 31, 2000 Trident deposed Thomas Barnett, President of Marsh. A true and correct copy of the relevant excerpts from Mr. Barnett's deposition transcript is attached hereto as Exhibit H.

10. On August 22 and 23, 2000, Independent deposed Trident's President, Elaine Pullen. A true and correct copy of the relevant excerpts from Ms. Pullen's deposition transcript is attached hereto as Exhibit I.

11. On April 4, 2001, Defendants again deposed Independent's Rule 30(b)(6), Fed.R.Civ.P., witnesses, Barry Brucker and Ranganathan NK. A true and correct copy of the relevant excerpts from Independent's April 4, 2001, 30(b)(6) deposition transcript is attached hereto as Exhibit J.

12. On May 8, 2001, Defendants deposed Independent's Vice-President, Ranganathan NK. A true and correct copy of the relevant excerpts from Mr. Ranganathan's deposition transcript is attached hereto as Exhibit K.

13. True and correct copies of a subpoena served on the custodian of records for E&J Gallo Winery on or about April 10, 2001, and E&J Gallo Winery's production of documents in response to the subpoena are attached collectively as Exhibit L.

14. On October 20, 2000, Independent filed a motion for summary judgment on the antitrust claims in its Second Amended Complaint. A true and correct copy of Independent's Memorandum of Points and Authorities in support of its motion for summary judgment is attached hereto as Exhibit M.

15. A true and correct copy of a report entitled *Trident Ink Business — A Factual Report to Aid in Preparing the Damage Model for Independent Ink Inc.*, prepared by Independent's Vice-President, Ranganathan NK, is attached hereto as Exhibit N.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on November 9, 2001 at Los Angeles, California.

/s/ LAURA A. WYTSMA
Laura A. Wytsma

EXHIBIT B
TO WYTSMA DECLARATION

CERTIFIED COPY

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

INDEPENDENT INK, INC., A CALIFORNIA CORPORATION	)	
PLAINTIFF,	)	
vs.	)	No. CV 98-6686 NM (CWX)
ILLINOIS TOOL WORKS, INC., A DELAWARE CORPORATION; TRIDENT, INC., A CONNECTICUT CORPORATION, AND DOES 1 THROUGH 50,	)	
DEFENDANTS.	)	

CONFIDENTIAL — ATTORNEYS' EYES ONLY

DEPOSITION OF GEORGE G. STRONG, JR.
LOS ANGELES, CALIFORNIA
THURSDAY, MAY 24, 2001

REPORTED BY:

TAMAR J. WOLFE
CSR NO. 8110, RPR, CRP, CRR

JOB NUMBER: 20877SON
CSR NO. 8110, RPR, CRP, CRR

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* * *

[Tr. 46] Q. AND THE ONLY THING YOU CONSIDERED AS AN ADVANTAGE OR DISADVANTAGE OF THE DISTRIBUTION NETWORK WAS TRANSLATED INTO PRICE?

A. CAN I HAVE THAT BACK AGAIN?

Q. I'LL REPHRASE IT.

A. OKAY.

Q. THE ONLY THING YOU CONSIDERED, IN RELATIONSHIP TO THE EFFECT OF THE DISTRIBUTION NETWORK, WAS ITS EFFECT ON THE PRICE TO THE END-USER?

A. WELL, THE ONLY — THE ONLY THING I CONSIDERED IN THE PRODUCTION — OR IN THE CALCULATIONS I HAVE PRESENTED IS ITS EFFECT ON PRICE. THAT'S CORRECT.

Q. AND YOUR REPORT ONLY ADDRESSES THE EFFECT OF THE DISTRIBUTION SYSTEM AS IT MAY AFFECT THE PRICE TO THE END-USER?

A. I DON'T BELIEVE THE REPORT ADDRESSES ANY OTHER BENEFITS TO THAT; FOR EXAMPLE, SERVICE, REPUTATION, THINGS REFERENCED BY MR. WILLIAMS. IT DOES NOT —

Q. BUT YOU NEVER TALKED TO ANY END-USERS, DID YOU?

A. I DID NOT.

Q. NO ONE IN YOUR ORGANIZATION TALKED TO ANY [Tr. 47] END-USERS?

A. THEY DID NOT.

Q. YOU MADE NO INDEPENDENT INVESTIGATION OF HOW END-USERS DETERMINED WHAT

PRINTING SYSTEMS OR WHAT INKS THEY'RE GOING TO BUY?

A. WE HAVE NOT.

IS THIS A GOOD TIME FOR A BREAK?

Q. ANYTIME. BY THE WAY, GEORGE, I SHOULD HAVE ADDED, ANYTIME YOU WANT TO TAKE A BREAK —

THE VIDEOGRAPHER: OFF THE RECORD, 10:18 A.M.

(BRIEF RECESS.)

THE VIDEOGRAPHER: ON THE RECORD, 10:45 A.M.

BY MR. WHITEHEAD:

Q. ALL RIGHT. WE'RE BACK ON THE RECORD, AND WHERE WE LEFT THE RECORD —

A. COULD I INTERRUPT YOU? I HAVE A CLARIFICATION TO THE RECORD WITH REFERENCE TO, I THINK, THIS EXHIBIT.

Q. EXHIBIT 9?

A. IS IT 9?

Q. UH-HUH.

A. OKAY. AND THAT HAS TO DO WITH — AT THE BREAK I WAS SPEAKING WITH MR. BRUCKER, WHO POINTS

* * *

[Tr. 112] NEITHER YOU NOR ANY MEMBER OF YOUR ORGANIZATION WENT OUT AND MADE AN INDEPENDENT INVESTIGATION AND TALKED TO PEOPLE IN EITHER THE PRINTING BUSINESS, THE

PIEZOELECTRIC PRINTING HEAD BUSINESS, OR THE INK MARKET?

A. THAT'S CORRECT, WE DID NOT.

MR. WHITEHEAD: OFF THE RECORD JUST A SECOND.

THE VIDEOGRAPHER: OFF THE RECORD, 12:15 P.M.

(LUNCH RECESS, 12:15 P.M. TO 1:24 P.M.)

* * *

[Tr. 114] ONE.

Q. BARRY WAS AT THE FIRST ONE, NOT THE SECOND ONE?

A. THAT'S MY RECOLLECTION. AND I DON'T THINK THERE WERE ANY REPRESENTATIVES OF MR. — EITHER MR. O'CONNOR OR ANYBODY FROM HIS OFFICE AT THE SECOND MEETING.

Q. SO THE SECOND MEETING OCCURRED AFTER YOU RECEIVED MR. RANGANATHAN'S REPORT?

A. YES, JUST, I THINK.

Q. WHAT DID YOU DISCUSS AT THAT MEETING?

A. WELL, WHAT WAS IN HIS REPORT AND HOW WE WERE GOING TO USE IT AND WHAT WE WERE GOING TO DO TO LAY OUT OUR CONCLUSIONS.

Q. OKAY. COULD YOU DETAIL THOSE DISCUSSIONS FOR ME. FIRST, WHAT DID YOU DISCUSS ABOUT THE REPORT?

A. JUST OUR GENERAL APPROACH AND THAT IT WAS — I MEAN, PROBABLY THE KEY THING WAS THAT IT WAS GOING TO BE A BENCHMARK PROFIT NUMBER AS OPPOSED TO TAKING A SPECIFIC MARKET SHARE POSITION. OKAY?

Q. OKAY. YOU WEREN'T ASKED TO INVESTIGATE THE MARKET, WERE YOU?

A. NO. PER SE, YOU MEAN?

[Tr. 115] Q. RIGHT.

A. WELL, OTHER THAN TO — TO UNDERSTAND WHO WAS IN THE MARKET AND THAT IT WAS ESSENTIALLY A TWO-PARTY PLAYER SYSTEM.

Q. BUT AS WE USE THE PHRASE IN ANTITRUST LAW, YOU WERE NOT ASKED TO GO IN AND INVESTIGATE THE MARKET OR DEFINE THE MARKET OR TO DELIVER OPINIONS ABOUT THE MARKET.

A. PER SE, AS WE UNDERSTAND THAT IN AN ANTITRUST SENSE, THE ANSWER IS NO. RIGHT. THE ONLY RELEVANCE OF THE MARKET — WHAT I'LL CALL THE "INDUSTRIAL ORGANIZATION PROBLEM," I.E., HOW THE SHARES WOULD BREAK OUT IN THE BUT-FOR WORLD — WAS TO UNDERSTAND, YOU KNOW, WHO THE SIGNIFICANT PLAYERS WERE, WHETHER THEY WERE MANUFACTURERS OR DISTRIBUTORS;

AND TO UNDERSTAND THAT, IF THIS WAS A TWO-PLAYER SYSTEM, YOU KNOW, A DUOPOLY, IN SUBSTANCE — THAT A COST DIFFERENCE — A COST ADVANTAGE OF ONE VERSUS THE OTHER, MEANING INDEPENDENT, COULD LEAD TO OR AT LEAST IN THE DIRECTION OF A VERY SIGNIFICANT SHARE, PROBABLY NOT TO THE THEORETICAL OPTIMUM OF 100 PERCENT, WHICH IS WHAT I THINK I STATED IN THE REPORT, BUT COULD BE VERY SIGNIFICANT.

[Tr. 116] Q. THIS PHRASE "NICHE MARKET" THAT YOU'VE USED, THAT WAS A WORD THAT WAS USED IN MR. RANGANATHAN'S REPORT?

A. WELL, THAT'S PRETTY — HAS A PRETTY GENERIC — I MEAN, A PRETTY GENERAL DEFINITION TO ME TOO. HE COULD HAVE USED IT AS WELL. AS I UNDERSTAND IT, A NICHE MARKET WOULD BE, YOU KNOW, THE VERY HIGH QUALITY INK THAT'S REQUIRED FOR THIS PARTICULAR APPLICATION, AND THAT SEEMED TO DEFINE A NICHE MARKET TO ME BECAUSE OTHER INKS WERE NOT SUBSTITUTABLE PRODUCTS.

NOW, WITHOUT GETTING INTO THEIR DEGREE OF SUBSTITUTABILITY, WHICH WOULD BE A PROPER ANTITRUST —

Q. NORMALLY, YOU'D HAVE TO DO A LOT OF INVESTIGATION INTO SUBSTITUTABLE AND A LOT OF OTHER ISSUES TO COME UP WITH OPINIONS ON THIS.

A. CROSS ELASTICITY OF DEMANDS, THOSE KINDS OF THINGS, GENERALLY, YES.

Q. AND YOU DID NOT DO THAT?

A. I DID NOT DO THAT, RIGHT.

Q. YOU THEN SAID YOU DISCUSSED WITH MR. RANGANATHAN HOW YOU WERE GOING TO USE HIS REPORT. WHAT WAS THAT?

A. WELL, SOME OF THE — THE ONE THAT COMES TO [Tr. 117] MIND PROBABLY — I MEAN, OTHER THAN THE GENERAL DESCRIPTION OF WHAT THEY DID AND THAT IT WAS, YOU KNOW, A SMALLER MARKET — HE MAY HAVE USED THE TERM "NICHE." I DON'T REMEMBER — WE WERE DEFINITELY GOING TO USE HIS ANALYSIS OF THE COST OF GOODS SOLD, WHICH WAS THE $12.42 NUMBER IN THE YEARS 1990, 2000. CLEARLY WE WERE GOING TO USE THAT.

I THINK WE ASKED HIM WHETHER IT WAS REASONABLE TO DEGRADE THAT. BY "DEGRADE," I MEAN TO WORK YOUR WAY BACKWARDS IN TIME ASSUMING THAT AN INDEX OF 2 PERCENT WAS APPROPRIATE; SO WE BASICALLY SHAVED 2 PERCENT OFF OF IT EACH YEAR GOING BACK AS WHAT THEY WOULD HAVE — WHAT A REASONABLE COST WOULD HAVE BEEN FOR THEIR PRODUCTION OF THE INK. I THINK WE ASKED HIM ABOUT THAT. THAT WAS THE PRIMARY REASON FOR USING IT.

THERE WAS — ANOTHER ASPECT HAD TO DO WITH THE ESTIMATE OF THE 70 PERCENT MARKUP AT EACH LEVEL OF THE DISTRIBUTION CHAIN. WE HAD SIGNIFICANT DISCUSSIONS —

Q. IS THAT AN ACTUAL FACT, THAT 70 PERCENT MARKUP?

A. WHEN YOU SAY "ACTUAL FACT," I DON'T —

Q. IT'S REDUNDANT, I KNOW, BUT IS THAT A FACTUAL STATEMENT?

* * *

[Tr. 122] THEIR INK VERSUS TRIDENT'S, AS THOSE ADVANTAGES GET BIGGER, THEN YOU WOULD EXPECT THEM TO MOVE AS A LIMIT CLOSER TO THAT 100 PERCENT, AND YOU WOULD —AND, MOREOVER, YOU'D EXPECT THEM TO DO THAT IN A DUOPOLY SITUATION.

Q. AND THE GENERAL MILLS ACCOUNT IS AN EXAMPLE OF THE PRICE ADVANTAGES THAT LED YOU TO THAT CONCLUSION?

A. IT'S AN EXAMPLE OF ONE SOPHISTICATED CONSUMER THAT MADE THE DECISION THAT, AT A 45 PERCENT DISCOUNT OFF OF TRIDENT, THEY WERE WILLING TO SUFFER THE SLINGS AND AR-

ROWS AND THE THREATS OF LITIGATION, AND THEY BOUGHT IT; AND THEY WERE PERSUADED BY PRICE OVER AND ABOVE SERVICE, OVER AND ABOVE REPUTATION, OVER AND ABOVE A LOT OF OTHER THINGS THAT ARE LISTED BY MR. WILLIAMS.

Q. NOW, YOU MAY HAVE MENTIONED A COUPLE OF TIMES, THIS IS A TWO-PERSON MARKET AND A DUOPOLY. COULD YOU EXPLAIN WHAT YOU MEAN BY THAT AND WHO THOSE TWO PEOPLE ARE.

A. SURE. THE TWO MAJOR — AS I UNDERSTAND IT, FOR THIS V300 HIGH RESOLUTION INK, THE TWO MAJOR PLAYERS ARE TRIDENT AND INDEPENDENT WITH A NUMBER OF OTHER — OH, I THINK THERE WERE TWO MORE RECENT MANUFACTURERS, AT A MANUFACTURING LEVEL, BY [Tr. 123] THE NAME OF GRAPHIC CONTROLS AND SQUID.

Q. S-Q-U-I-B-B?

MR. O'CONNOR: NO. "D," LIKE A SQUID, LIKE THE ANIMAL. THAT'S WHERE THEY GET THE INK.

MR. WHITEHEAD: I'M SORRY.

MR. O'CONNOR: SQUID INK AS OPPOSED TO OCTOPUS INK, THEIR NO. 1 COMPETITOR AND CONGLOMERATE.

THE WITNESS: BA DAH BUM.

MR. WHITEHEAD: IN MY SPELLING, I LOST THE ANSWER.

WOULD YOU R''AD THE ANSWER BACK.

(THE RECORD WAS READ AS FOLLOWS:

"QUESTION: NOW, YOU MAY HAVE MENTIONED A COUPLE OF TIMES, THIS IS A TWO-PERSON

MARKET AND A DUOPOLY. COULD YOU EXPLAIN WHAT YOU MEAN BY THAT AND WHO THOSE TWO PEOPLE ARE. "ANSWER: SURE. THE TWO MAJOR — AS I UNDERSTAND IT, FOR THIS V300 HIGH RESOLUTION INK, THE TWO MAJOR PLAYERS ARE TRIDENT AND INDEPENDENT WITH A NUMBER OF OTHER — OH, I THINK THERE WERE TWO MORE RECENT MANUFACTURERS, AT A MANUFACTURING

* * *

[Tr. 125] MEAN?

A. WELL, "MARKET CLEARANCE" IS A TERM OF — A TRANSACTION OCCURRED AS OPPOSED TO THEORY, WHERE IT SHOULD OCCUR. YOU KNOW, THE MEETING OF THE MINDS OF WILLING BUYERS AND SELLERS IS GENERALLY A PERSUASIVE PIECE OF EVIDENCE, AND THAT'S — THAT'S WHY IT WAS PERSUASIVE TO GENERAL MILLS IN SPITE OF THE THREATS OF LITIGATION AND — AND ALL OF THE CHALLENGED CONDUCT, DECIDED TO EXECUTE, DECIDED TO ACTUALLY PURCHASE AT THAT MOMENT, SO THAT'S A DATA POINT THAT I USED.

Q. THIS WORD "DUOPOLY" YOU USED. WHAT DOES THAT MEAN AND WHERE DOES THAT COME FROM?

A. A DUOPOLY GENERALLY DESCRIBES A MARKET IN WHICH THERE ARE TWO SELLERS. IT COMES FROM THE GREEK.

Q. I'M NOT A GREEK SCHOLAR.

A. OKAY. SORRY. BUT THAT'S WHAT — IT JUST MEANS TWO SELLERS.

MR. O'CONNOR: DUO.

BY MR. WHITEHEAD:

Q. "DUOPOLY" DOESN'T HAVE A SPECIAL MEANING FOR YOU? IT'S JUST ANOTHER WAY OF DESCRIBING IN YOUR OPINION THAT THERE ARE TWO MAJOR SELLERS OF V300 INK, TRIDENT AND INDEPENDENT?

[Tr. 126] A. YEAH, I ATTRIBUTE NO ADDITIONAL CONNOTATIONS TO DUOPOLY OTHER THAN THEY'RE TWO SELLERS.

Q. SO IT TOOK ROUGHLY A LITTLE OVER TWO WEEKS FROM THE TIME YOU WERE FIRST CONTACTED BY MR. O'CONNOR UNTIL YOU DEVELOPED EXHIBIT 1 FOR SUBMISSION IN THIS CASE?

A. IT TOOK TWO WEEKS. I GUESS —

Q. FEBRUARY 12, ROUGHLY, TO MARCH 2ND, WHICH WAS THE DATE OF THE REPORT.

A. I THINK OUR MEETING WAS ON THE 19TH OR 20TH, AND THEN WE HAD ANOTHER MEETING WITH MR. RANGANATHAN ABOUT THE 25TH OR – 6ISH NEXT WEEK. AND THEN WE PRODUCED A REPORT AT THE END OF THE WEEK, WHICH IS PROBABLY MARCH 2, CLOSE TO IT. YEAH. SO IT WAS ABOUT TEN DAYS.

Q AND MR. RANGANATHAN, IN DISCUSSING WITH YOU HOW TO USE HIS REPORT, ASKED YOU TO MAKE A NUMBER OF ASSUMPTIONS THAT WERE CONTAINED IN HIS REPORT.

A. WELL, ACTUALLY, I DON'T KNOW THAT THAT'S THE — I ASKED HIM WHAT IT WOULD COST HIM TO MAKE THE PRODUCT, AND HE PRODUCED — AND I WANTED HIM TO ADDRESS THAT IN HIS REPORT, AND HE DID, AND THAT'S WHERE I CAME UP WITH THE 12.42; SO I GUESS I ASKED [Tr. 128] EVIDENCE WOULD BE MORE — HE WAS LOOKING TO OTHER EVIDENCE TO PROVIDE WHAT I'LL CALL

THE MARKET SHARE ASSUMPTION OR TO PROVIDE LIGHT ON THAT ISSUE, WHICH IS, YOU KNOW, IN A BUT-FOR WORLD WOULD THIS HAVE SHAKEN OUT AS THE TWO PLAYERS TAKE 90 PERCENT AND THE TWO SMALL ONES TAKE 10 OR SOME OTHER.

Q. I HAVE TO APOLOGIZE. I LOOKED AT MY NOTES OVER THE NOON HOUR, AND I AM QUITE CONFUSED OVER THE WAY IN WHICH YOU ARE USING BENCHMARK FORMAT.

AND I LOOKED AT THE EXHIBITS AGAIN WHERE YOU HAVE BENCHMARK INCOME, BENCHMARK PROFITS, BENCHMARK SALES, AND THEN A SUMMARY SHEET WHERE YOU HAVE "BENCHMARK INCOME" AT THE TOP.

PERHAPS YOU COULD HELP ME WITH THE RIGHT QUESTION TO ASK, BUT LET'S START WITH: WHAT IS THE DIFFERENCE BETWEEN A BENCHMARK FORMAT AND A MOST LIKELY OCCURRENCE FORMAT?

A. WELL, "MOST LIKELY OCCURRENCE" WOULD BE, IF I WERE TO TAKE A POSITION AND SAY "IN THE BUT-FOR WORLD, INDEPENDENT INK WOULD HAVE HAD EXACTLY 63.5 PERCENT OF THE MARKET SHARE." OKAY? THAT WOULD REQUIRE AN ANALYSIS OF WHO THE OTHER PLAYERS ARE AND SOME REASONABLE ESTIMATE OF WHAT SHARE THEY WOULD LIKELY OBTAIN.

I WASN'T ASKED TO DO THAT. MR. O'CONNOR

* * *

[Tr. 198] Q. DO YOU RECOGNIZE ANY ECONOMIC TREATISES AS AUTHORITATIVE IN THE FIELD IN WHICH YOU ARE TESTIFYING OF DAMAGES?

A. ANY ECONOMIC TREATISES?

Q. RIGHT.

A. THERE ARE FEW ECONOMIC TREATISES THAT ARE RELEVANT TO THE AREA OF DAMAGES IN THE CALCULATION OF LOST PROFITS. AS I THINK I SAID EARLIER, THE MOST RELEVANT DISCIPLINE AMONG THE MANY FINANCIAL SERVICES PROBABLY IS FINANCIAL ANALYSIS. PERHAPS ONLY IN THE AREA OF ANTITRUST, WHERE THE DEFINITION OF MARKETS AND THE DEFINITION OF SUBSTITUTABLE GOODS AND THE USE OF CONCEPTS LIKE CROSS ELASTICITY OF DEMAND ARE RELEVANT.

THE COURT REPORTER: I'M SORRY. START OVER. "THE DEFINITION OF SUBSTITUTABLE GOODS AND THE" —

THE WITNESS: CROSS ELASTICITY — I'LL SPELL THAT FOR YOU LATER — OF DEMAND.

OTHER THAN THAT, THE — THERE ARE FEW ECONOMIC PRINCIPLES, PER SE, THAT ARE USEFUL IN CALCULATION OF DAMAGE CLAIMS. THE MORE OF THOSE ARE PROBABLY CONSIDERED IN THE. AREA OF FINANCIAL ANALYSIS ALTHOUGH THERE ARE SOME RELATED CONCEPTS IN TERMS OF MANAGEMENT ACCOUNTING.

[Tr. 210] **REPORTER' CERTIFICATE**

I., TAMAR J. WOLFE, CSR NO. 8110, A CERTIFIED SHORTHAND REPORTER IN AND FOR THE STATE OF CALIFORNIA, DO HEREBY CERTIFY:

THAT PRIOR TO BEING EXAMINED, THE WITNESS DECLARED UNDER PENALTY OF PERJURY THAT THE TESTIMONY GIVEN IN THESE PROCEEDINGS WILL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH;

THAT SAID PROCEEDINGS WERE TAKEN BY ME IN SHORTHAND AT THE TIME AND PLACE HEREIN NAMED AND WAS THEREAFTER TRANSCRIBED INTO TYPEWRITING UNDER MY DIRECTION. SAID TRANSCRIPT BEING A TRUE AND CORRECT TRANSCRIPTION OF MY SHORTHAND NOTES.

I FURTHER CERTIFY THAT I HAVE NO INTEREST IN THE OUTCOME OF THIS ACTION.

DATED JUNE 7, 2001

/s/ TAMAR J. WOLFE
Tamar J. Wolfe
CSR No. 8110

EXHIBIT C
TO WYTSMA DECLARATION

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INDEPENDENT INK, INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

INDEPENDENT INK, INC., a California corporation Plaintiff vs. Illinois Tool Works, Inc., a Delaware corporation; and TRIDENT, INC., a Connecticut corporation; and DOES 1 through 50, Defendants.	Case No. CV 98-6686-NM (CWx) **INDEPENDENT INK, INC.'S RESPONSE TO ILLINOIS TOOL WORKS, INC.'S FIRST SET OF REQUESTS FOR ADMISSIONS**

Pursuant to Rule 36 of the Federal Rules of Civil Procedure, Plaintiff Independent Ink, Inc., by its attorneys, provides its response to Illinois Tool Works, Inc.'s First Set of Requests for Admissions.

REQUEST FOR ADMISSION NO. 1

Admit that ITW nor Trident sell piezoelectric printheads directly to end user customers.

RESPONSE TO REQUEST FOR ADMISSION NO. 1

Deny. OEMs which are owned by ITW sell piezoelectric printheads, incorporated in printing machines directly to end user customers.

REQUEST FOR ADMISSION No. 2

Admit that neither ITW nor Trident sell printing consumables directly to end user customers.

RESPONSE TO REQUEST FOR ADMISSION NO. 2

Deny. OEMs owned by ITW sell printing consumables directly to end user customers.

REQUEST FOR ADMISSION NO. 3

Admit that You have solicited and continues to solicit customers to return empty Trident containers sold by Defendants ("Trident containers") to be refilled with J12051 BC bar Code ink.

RESPONSE TO REQUEST FOR ADMISSION NO. 3

Admit.

REQUEST FOR ADMISSION NO. 4

Admit that You refill Trident containers with J12051 Bar Code ink.

RESPONSE TO REQUEST FOR ADMISSION NO. 4

Admit.

REQUEST FOR ADMISSION NO. 5

Admit that Trident containers You refill are labeled "single use only."

RESPONSE TO REQUEST FOR ADMISSION NO. 5

Admit.

REQUEST FOR ADMISSION NO. 6

Admit that Trident containers You refill are labeled "do not refill."

RESPONSE TO REQUEST FOR ADMISSION NO. 6

Admit.

REQUEST FOR ADMISSION NO. 7

Admit that Independent has knowledge that Trident's ink containers are marked "single use only" and "do not refill."

RESPONSE TO REQUEST FOR ADMISSION NO. 7

Admit.

REQUEST FOR ADMISSION NO. 8

Admit that customers of Independent have verbally mentioned that the ink containers they use in connection with their piezoelectric printing systems are marked "single use only" and "do not refill."

RESPONSE TO REQUEST FOR ADMISSION NO. 8

Admit.

REQUEST FOR ADMISSION NO. 9

Admit that distributors of Independent verbally mentioned that the ink containers used in association with Trident piezoelectric printheads are marked "single use only" and "do not refill."

RESPONSE TO REQUEST FOR ADMISSION NO. 9

Admit.

REQUEST FOR ADMISSION NO. 10

Admit that You informed, either verbally or in writing, third parties (including but not limited to customers using Defendants' ink containers), that the '226 Patent is invalid.

RESPONSE TO REQUEST FOR ADMISSION NO. 10

Deny.

REQUEST FOR ADMISSION NO. 11

Admit that You informed, either verbally or in writing, third parties (including but not limited to customers using Defendants' ink containers), that the '226 Patent is unenforceable.

RESPONSE TO REQUEST FOR ADMISSION NO. 11

Deny.

REQUEST FOR ADMISSION NO. 12

Admit that You informed, either verbally or in writing, third parties (including but not limited to customers using Defendants' ink containers), that the "single-use only" restriction on Defendants' ink containers is invalid.

RESPONSE TO REQUEST FOR ADMISSION NO. 12

Admit.

REQUEST FOR ADMISSION NO. 13

Admit that You informed, either verbally or in writing, third parties (including but not limited to customers using Defendants' ink containers), that the "single-use only" restriction on Defendants' ink containers is illegal.

RESPONSE TO REQUEST FOR ADMISSION NO. 13

Deny.

REQUEST FOR ADMISSION NO. 14

Admit that You informed, either verbally or in writing, third parties (including but not limited to customers using Defendants' ink containers), that the "do not refill" restriction on Defendants' ink containers is invalid.

RESPONSE TO REQUEST FOR ADMISSION NO. 4

Admit.

REQUEST FOR ADMISSION NO. 15

Admit that You informed, either verbally or in writing, third parties (including but not limited to customers using Defendants' ink containers), that the "do not refill" restriction on Defendants' ink containers is illegal.

RESPONSE TO REQUEST FOR ADMISSION NO. 15

Deny.

REQUEST FOR ADMISSION NO. 16

Admit that You are not the owner of the '226 Patent.

RESPONSE TO REQUEST FOR ADMISSION NO. 16

Admit.

REQUEST FOR ADMISSION NO. 17

Admit that You are not authorized or licensed to make, use, sell or offer for sell ink containers falling with any of the claims of the '226 Patent.

RESPONSE TO REQUEST FOR ADMISSION NO. 17

Admit.

REQUEST FOR ADMISSION NO. 18

Admit that Defendants have never made any misrepresentations to You regarding the '226 Patent.

RESPONSE TO REQUEST FOR ADMISSION NO. 18

Deny. Defendants have represented to the whole world, including Plaintiff, that the '226 patent is enforceable by virtue of the "single use license", "single use only", "do not refill" and "single use license under Trident patent rights including U.S. Pat. 5,342,226 do not refill" notation on Defendants' bottles.

REQUEST FOR ADMISSION NO. 19

Admit that Defendants have never made any misrepresentations to You regarding the scope of the "single-use only" restriction on Defendants' ink containers.

RESPONSE TO REQUEST FOR ADMISSION NO. 19

Deny. See answer to 18 above.

REQUEST FOR ADMISSION NO. 20

Admit that Defendants have never made any misrepresentations to You regarding the scope of the "do not. refill" restriction on Defendants' ink containers.

RESPONSE TO REQUEST FOR ADMISSION NO. 20

Deny. See answer to 18 above.

REQUEST FOR ADMISSION NO. 21

Admit that You have never relied on any alleged misrepresentation by Defendants regarding the '226 Patent.

RESPONSE TO REQUEST FOR ADMISSION NO. 21

Admit.

REQUEST FOR ADMISSION NO. 22

Admit that You have never relied on any alleged misrepresentation by Defendants regarding the scope of the "single-use license" restriction on Defendants' ink containers.

RESPONSE TO REQUEST FOR ADMISSION NO. 22

Admit.

REQUEST FOR ADMISSION NO. 23

Admit that You have never relied on any alleged misrepresentation by Defendants regarding the scope of the "do not refill" restriction on Defendants' ink containers.

RESPONSE TO REQUEST FOR ADMISSION NO. 23

Admit.

REQUEST FOR ADMISSION NO. 24

Admit that You did not rely on any statement contained in the May 1, 2000 letter from Elaine Pullen.

RESPONSE TO REQUEST FOR ADMISSION NO. 24

Admit.

REQUEST FOR ADMISSION NO. 25

Admit that neither ITW nor Trident compete in the "refill [ink] market."

RESPONSE TO REQUEST FOR ADMISSION NO. 25

Objection. The term "refill [ink] market" is not a term involved in this case and is not defined in this request for admission.

REQUEST FOR ADMISSION NO. 26

Admit that Applied Technologies Group, Master Packaging, Squid Ink Manufacturing, and Graphic Controls sell high resolution ink for use in the Trident piezoelectric printhead.

RESPONSE TO REQUEST FOR ADMISSION NO. 26

Deny. Plaintiff is aware that ATG, Squid and Graphic Controls have sold such inks in the past. Plaintiff is not aware of their current status.

REQUEST FOR ADMISSION NO. 27

Admit that a label may be used to apply a bar code to corrugated materials or kraft papers.

RESPONSE TO REQUEST FOR ADMISSION NO. 27

Admit.

REQUEST FOR ADMISSION NO. 28

Admit that piezoelectric technology is not capable of producing a Grade A barcode.

RESPONSE TO REQUEST FOR ADMISSION NO. 28

Deny.

REQUEST FOR ADMISSION NO. 29

Admit that piezoelectric technology is not capable of producing Grade B barcode.

RESPONSE TO REQUEST FOR ADMISSION NO. 29

Deny.

REQUEST FOR ADMISSION NO. 30

Admit that Xaar sells a non-Trident printhead which is capable of printing a barcode on corrugated materials and kraft papers.

RESPONSE TO REQUEST FOR ADMISSION No. 30

Deny. Plaintiff has no knowledge as to whether or not Xaar presently sells a non-Trident printhead capable of printing a barcode on corrugated materials and kraft paper. Plaintiff has no knowledge as to when Xaar may have sold such a printhead, nor how many have been sold, nor when they have been sold.

REQUEST FOR ADMISSION NO. 31

Admit that Markem sells a non-Trident printhead which is capable of printing a barcode on corrugated materials and kraft paper.

RESPONSE TO REQUEST FOR ADMISSION NO. 31

Admit.

REQUEST FOR ADMISSION NO. 32

Admit that Marconi Data Products sells a non-Trident printhead which is capable of printing a barcode on corrugated materials and kraft paper.

RESPONSE TO REQUEST FOR ADMISSION NO. 32

Deny. Plaintiff has no knowledge as to whether or not Marconi Data Products presently sells a non-Trident printhead capable of printing a barcode on corrugated materials and kraft paper. Plaintiff has no knowledge as to when Marconi Data Products may have sold such a printhead, nor how many have been sold, nor when they have been sold.

REQUEST FOR ADMISSION NO. 33

Admit that Trident was the first company to produce a printhead which was capable of printing a barcode directly on corrugated materials and kraft paper.

RESPONSE TO REQUEST FOR ADMISSION NO. 33

Deny.

REQUEST FOR ADMISSION NO. 35

Admit that Trident printheads are sold by distributors to end users outside the United States.

RESPONSE TO REQUEST FOR ADMISSION NO. 35

Admit.

REQUEST FOR ADMISSION NO. 36

Admit from 1992 to the present that the number of manufacturers of commercial ink jet ink has increased.

RESPONSE TO REQUEST FOR ADMISSION NO. 36

Admit.

REQUEST FOR ADMISSION NO. 37

Admit that from 1992 to the present that the number of distributors of commercial ink jet ink has increased.

RESPONSE TO REQUEST FOR ADMISSION NO. 37

Admit.

REQUEST FOR ADMISSION NO. 38

Admit that from 1992 to the present that the number of manufacturers of commercial ink jet printing systems, (including but not limited to impulse ink jet print head systems), has increased.

RESPONSE TO REQUEST FOR ADMISSION NO. 38

Admit.

REQUEST FOR ADMISSION NO. 39

Admit that from 1992 to the present that the number of distributors of commercial ink jet printing systems, including but not limited to impulse ink jet print head systems has increased.

RESPONSE TO REQUEST FOR ADMISSION NO. 39

Admit.

REQUEST FOR ADMISSION NO. 40

Admit that You are not aware of any instance where Defendants actually refused to repair or replace a printhead because of the use of ink not supplied by Trident.

RESPONSE TO REQUEST FOR ADMISSION NO. 40

Admit.

REQUEST FOR ADMISSION NO. 41

Admit that You are not aware of any instance where Defendants actually withheld goods from any distributor or end user.

RESPONSE TO REQUEST FOR ADMISSION No. 41

Admit.

REQUEST FOR ADMISSION No. 42

Admit that print-and-apply labeling apparatuses are reasonably interchangeable with impulse ink jet printheads for printing barcodes for use in coding outer cartons.

RESPONSE TO REQUEST FOR ADMISSION NO. 42

Deny. According to Defendants' own internal documents, these are distinct markets with separate advantages and disadvantages.

REQUEST FOR ADMISSION NO. 43

Admit that print-and-apply labeling apparatuses can be used interchangeably by end users with impulse ink jet printheads for coding outer cartons with barcodes.

RESPONSE TO REQUEST FOR ADMISSION NO. 43

Deny. See response to No. 42 above.

REQUEST FOR ADMISSION NO. 44

Admit that preprinted boxes can be used interchangeably by end users with impulse ink jet printheads for code outer cartons with barcodes.

RESPONSE TO REQUEST FOR ADMISSION NO. 44

Deny.

REQUEST FOR ADMISSION NO. 45

Admit that some distributors compare print-and-apply labeling apparatuses and impulse ink jet printheads for coding outer cartons with barcodes in marketing materials.

RESPONSE TO REQUEST FOR ADMISSION NO. 45

Object. Vague and ambiguous as to "some distributors."

REQUEST FOR ADMISSION NO. 46

Admit that print-and-apply labeling apparatuses are reasonably interchangeable with impulse ink jet printheads for coding outer cartons with barcodes.

RESPONSE TO REQUEST FOR ADMISSION NO. 46

Deny.

REQUEST FOR ADMISSION NO. 47

Admit that distributors of impulse ink jet printheads are presently marketing their products as a potential replacement for print-and-apply labeling apparatuses for coding outer cartons with barcodes.

RESPONSE TO REQUEST FOR ADMISSION NO. 47

Objection. Vague and ambiguous. No indication as to which distributors this request refers.

REQUEST FOR ADMISSION NO. 48

Admit that distributors of impulse ink jet printheads are presently marketing their products for coding outer cartons with barcodes as a potential replacement for preprinted cartons.

RESPONSE TO REQUEST FOR ADMISSION NO. 48

Objection. Vague and ambiguous. No indication as to which distributors this request refers.

REQUEST FOR ADMISSION NO. 49

Admit that end users consider the life cycle cost of consumables in making the decision whether to purchase a impulse ink jet systems or print-and-apply label system.

RESPONSE TO REQUEST FOR ADMISSION NO. 49

Object. Vague and ambiguous as to the term "end users." No indication as to which end users this request refers.

REQUEST FOR ADMISSION NO. 50

Admit that You are aware of instances where an end user customers switched away from an impulse ink jet system for purposes of coding outer cartons with barcodes.

RESPONSE TO REQUEST FOR ADMISSION NO. 50

Admit.

REQUEST FOR ADMISSION NO. 51

Admit that You are aware of instances where your ink appeared to have clogged an impulse ink jet printhead.

RESPONSE TO REQUEST FOR ADMISSION NO. 51

Deny. Any impulse ink jet printhead can become clogged with any ink if it is not properly maintained and periodically cleaned. This does not mean that it was clogging as a result of any particular characteristics of Plaintiff's ink.

REQUEST FOR ADMISSION NO. 52

Admit that You are aware of instances where ink produced by someone other than Defendants appeared to have clogged an impulse ink jet printhead.

RESPONSE TO REQUEST FOR ADMISSION NO. 52

Deny. Any impulse ink jet printhead can become clogged with any ink if it is not properly maintained and periodically cleaned. This does not mean that it was clogging as a result of any particular characteristics of Plaintiff's ink.

REQUEST FOR ADMISSION NO. 53

Admit that You are not aware of instances where ink produced by Defendants appeared to have clogged an impulse ink jet printhead.

RESPONSE To REQUEST FOR ADMISSION NO. 53

Deny. Any impulse ink jet printhead can become clogged with any ink if it is not properly maintained and periodically cleaned. Defendants' internal documents, including customer surveys, indicate clogging problems with Defendants' ink.

REQUEST FOR ADMISSION NO. 54

Admit that You are aware of instances where your ink appeared to have corroded an impulse ink jet printhead.

RESPONSE TO REQUEST FOR ADMISSION NO. 54

Deny.

REQUEST FOR ADMISSION NO. 55

Admit that You are aware of instances where ink produced by someone other than Defendants appeared to have corroded an impulse ink jet printhead.

RESPONSE TO REQUEST FOR ADMISSION NO. 55

Deny.

REQUEST FOR ADMISSION NO. 56

Admit that You are not aware of instances where ink produced by Defendants appeared to have corroded an impulse ink jet printhead.

RESPONSE TO REQUEST FOR ADMISSION NO. 56

Deny.

REQUEST FOR ADMISSION NO. 57

Admit that any time during the relevant period, there has been more than one manufacturer of commercial ink jets for

use in commercial ink jet printing systems, including, but not limited to, impulse ink jet print head systems.

RESPONSE TO REQUEST FOR ADMISSION NO. 57

Objection. This request for admission is a clever, but not clever enough, attempt by Defendants to insert a trick question. The market is not commercial ink jet ink, the market is ink for use in conjunction with Trident's piezoelectric printhead system. Overall sales of commercial ink jet ink are irrelevant to the issues in this lawsuit.

REQUEST FOR ADMISSION NO. 58

Admit that any time during the relevant period, there has been more than one distributor of commercial ink jet inks for use in commercial ink jet printing systems, including, but not limited to, impulse ink jet print head systems.

RESPONSE TO REQUEST FOR ADMISSION NO. 58

Objection. This request for admission is a clever, but not clever enough, attempt by Defendants to insert a trick question. The market is not commercial ink jet ink, the market is ink for use in conjunction with Trident's piezoelectric printhead system. Overall sales of commercial ink jet ink are irrelevant to the issues in this lawsuit.

REQUEST FOR ADMISSION NO. 59

Admit that any time during the relevant period, there has been more than two manufacturers of commercial ink jet inks for use in commercial ink jet printing systems, including, but not limited to, impulse ink jet print head systems.

RESPONSE TO REQUEST FOR ADMISSION NO. 59

Objection. This request for admission is a clever, but not clever enough, attempt by Defendants to insert a trick question. The market is not commercial ink jet ink, the market is ink for use in conjunction with Trident's piezoelectric

printhead system. Overall sales of commercial ink jet ink are irrelevant to the issues in this lawsuit.

REQUEST FOR ADMISSION NO. 60

Admit that any time during the relevant period, there have been more than two distributors of commercial ink jet inks for use in commercial ink jet printing systems, including, but not limited to, impulse ink jet print head systems.

RESPONSE TO REQUEST FOR ADMISSION NO. 60

Objection. This request for admission is a clever, but not clever enough, attempt by Defendants to insert a trick question. The market is not commercial ink jet ink, the market is ink for use in conjunction with Trident's piezoelectric printhead system. Overall sales of commercial ink jet ink are irrelevant to the issues in this lawsuit.

REQUEST FOR ADMISSION NO. 61

Admit that any time during the relevant period, there have been more than five manufacturers of commercial ink jet inks for use in commercial ink jet printing systems, including, but not limited to, impulse ink jet print head systems.

RESPONSE TO REQUEST FOR ADMISSION NO. 61

Objection. This request for admission is a clever, but not clever enough, attempt by Defendants to insert a trick question. The market is not commercial ink jet ink, the market is ink for use in conjunction with Trident's piezoelectric printhead system. Overall sales of commercial ink jet ink are irrelevant to the issues in this lawsuit.

REQUEST FOR ADMISSION NO. 62

Admit that any time during the relevant period, there have been more than five distributors of commercial ink jet inks for use in commercial ink jet printing systems, including, but not limited to, impulse ink jet print head systems.

RESPONSE TO REQUEST FOR ADMISSION NO. 62

Objection. This request for admission is a clever, but not clever enough, attempt by Defendants to insert a trick question. The market is not commercial ink jet ink, the market is ink for use in conjunction with Trident's piezoelectric printhead system. Overall sales of commercial ink jet ink are irrelevant to the issues in this lawsuit.

REQUEST FOR ADMISSION NO. 63

Admit that any time during the relevant period, there have been more than ten manufacturers of commercial ink jet inks for use in commercial ink jet printing systems, including, but not limited to, impulse ink jet print head systems.

RESPONSE TO REQUEST FOR ADMISSION NO. 63

Objection. This request for admission is a clever, but not clever enough, attempt by Defendants to insert a trick question. The market is not commercial ink jet ink, the market is ink for use in conjunction with Trident's piezoelectric printhead system. Overall sales of commercial ink jet ink are irrelevant to the issues in this lawsuit.

REQUEST FOR ADMISSION NO. 64

Admit that any time during the relevant period, there have been more than ten distributors of commercial ink jet inks for use in commercial ink jet printing systems, including, but not limited to, impulse ink jet print head systems.

RESPONSE To REQUEST FOR ADMISSION No. 64

Objection. This request for admission is a clever, but not clever enough, attempt by Defendants to insert a trick question. The market is not commercial ink jet ink, the market is ink for use in conjunction with Trident's piezoelectric printhead system. Overall sales of commercial ink jet ink are irrelevant to the issues in this lawsuit.

REQUEST FOR ADMISSION NO. 65

Admit that in the year 2000, Trident's sales of commercial ink jet ink for use in commercial ink jet printing systems, including, but not limited to, impulse ink jet print head systems, did not exceed 50% of the total market for commercial ink jet ink in that year.

RESPONSE To REQUEST FOR ADMISSION NO. 65

Objection. This request for admission is a clever, but not clever enough, attempt by Defendants to insert a trick question. The market is not commercial ink jet ink, the market is ink for use in conjunction with Trident's piezoelectric printhead system. Overall sales of commercial ink jet ink are irrelevant to the issues in this lawsuit.

REQUEST ADMISSION NO. 66

Admit that in the year 1999, Trident's sales of commercial ink jet ink for use in commercial ink jet printing systems, including, but not limited to, impulse ink jet print head systems, did not exceed 50% of the total market for commercial ink jet ink in that year,

RESPONSE TO REQUEST FOR ADMISSION NO. 66

Objection. This request for admission is a clever, but not clever enough, attempt by Defendants to insert a trick question. The market is not commercial ink jet ink, the market is ink for use in conjunction with Trident's piezoelectric printhead system. Overall sales of commercial ink jet ink are irrelevant to the issues in this lawsuit.

REQUEST FOR ADMISSION NO. 67

Admit that in the year 1998, Trident's sales of commercial ink jet ink for use in commercial ink jet printing systems, including, but not limited to, impulse ink jet print head systems, did not exceed 50% of the total market for commercial ink jet ink in that year.

RESPONSE TO REQUEST FOR ADMISSION NO. 67

Objection. This request for admission is a clever, but not clever enough, attempt by Defendants to insert a trick question. The market is not commercial ink jet ink, the market is ink for use in conjunction with Trident's piezoelectric printhead system, overall sales of commercial ink jet ink are irrelevant to the issues in this lawsuit.

REQUEST FOR ADMISSION NO. 68

Admit that in the year 1997, Trident's sales of commercial ink jet ink for use in commercial ink jet printing systems, including, but not limited to, impulse ink jet print head systems, did not exceed 50% of the total market for commercial ink jet ink in that year.

RESPONSE TO REQUEST FOR ADMISSION NO. 68

Objection. This request for admission is a clever, but not clever enough, attempt by Defendants to insert a trick question. The market is not commercial ink jet ink, the market is ink for use in conjunction with Trident's piezoelectric printhead system. Overall sales of commercial ink jet ink are irrelevant to the issues in this lawsuit.

REQUEST FOR ADMISSION NO. 69

Admit that in the year 1996, Trident's sales of commercial ink jet ink for use in commercial ink jet printing systems, including, but not limited to, impulse ink jet print head systems, did not exceed 50% of the total market for commercial ink jet ink in that year.

RESPONSE TO REQUEST FOR ADMISSION NO. 69

Objection. This request for admission is a clever, but not clever enough, attempt by Defendants to insert a trick question. The market is not commercial ink jet ink, the market is ink for use in conjunction with Trident's piezoelectric printhead system. Overall sales of commercial ink jet ink are irrelevant to the issues in this lawsuit.

REQUEST FOR ADMISSION NO. 70

Admit that in the year 1995, Trident's sales of commercial ink jet ink for use in commercial ink jet printing systems, including, but not limited to, impulse ink jet print head systems, did not exceed 50% of the total market for commercial ink jet ink in that year.

RESPONSE TO REQUEST FOR ADMISSION NO. 70

Objection. This request for admission is a clever, but not clever enough, attempt by Defendants to insert a trick question. The market is not commercial ink jet ink, the market is ink for use in conjunction with Trident's piezoelectric printhead system. Overall sales of commercial ink jet ink are irrelevant to the issues in this lawsuit.

REQUEST FOR ADMISSION NO. 71

Admit that in the year 1994, Trident's sales of commercial ink jet ink for use in commercial ink jet printing systems, including, but not limited to, impulse ink jet print head systems, did not exceed 50% of the total market for commercial ink jet ink in that year.

RESPONSE TO REQUEST FOR ADMISSION NO. 71

Objection. This request for admission is a clever, but not clever enough, attempt by Defendants to insert a trick question. The market is not commercial ink jet ink, the market is ink for use in conjunction with Trident's piezoelectric printhead system. Overall sales of commercial ink jet ink are irrelevant to the issues in this lawsuit.

REQUEST FOR ADMISSION NO. 72

Admit that in the year 1993, Trident's sales of commercial ink jet ink for use in commercial ink jet printing systems, including, but not limited to, impulse ink jet print head systems, did not exceed 50% of the total market for commercial ink jet ink in that year.

RESPONSE TO REQUEST FOR ADMISSION NO. 72

Objection. This request for admission is a clever, but not clever enough, attempt by Defendants to insert a trick question. The market is not commercial ink jet ink, the market is ink for use in conjunction with Trident's piezoelectric printhead system. Overall sales of commercial ink jet ink are irrelevant to the issues in this lawsuit.

REQUEST FOR ADMISSION NO. 73

Admit that in the year 1992, Trident's sales of commercial ink jet ink for use in commercial ink jet printing systems, including, but not limited to, impulse ink jet print head systems, did not exceed 50% of the total market for commercial ink jet ink in that year.

RESPONSE TO REQUEST FOR ADMISSION NO. 73

Objection. This request for admission is a clever, but not clever enough, attempt by Defendants to insert a trick question. The market is not commercial ink jet ink, the market is ink for use in conjunction with Trident's piezoelectric printhead system. Overall sales of commercial ink jet ink are irrelevant to the issues in this lawsuit.

REQUEST FOR ADMISSION NO. 74

Admit that end user customers are able to recognize the shape of the Trident containers as coming from a single source.

RESPONSE TO REQUEST FOR ADMISSION NO. 74

Deny. Plaintiff has no knowledge whatsoever as to whether or not end user customers are able recognize the shape of the Trident container as coming from a single source.

STRADLING YOCCA CARLSON

&

RAUTH

Dated: April 25, 2001

/s/ JULIE MCCOY AKINS
Julie McCoy Akins
Attorneys for Plaintiff
Independent Ink, Inc.

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss
COUNTY OF ORANGE)

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is Stradling Yocca Carlson & Rauth, 660 Newport Center Drive, Suite 1600, Newport Beach, CA 92660-6422. On April 25, 2001, I served the within documents:

INDEPENDENT INK, INC.'S RESPONSE TO ILLINOIS TOOL WORKS, INC.'S FIRST SET OF REQUESTS FOR ADMISSIONS

☐ I sent such document from facsimile machine (949) 725-4100 on April 25, 2001. I certify that said transmission was completed and that all pages were received and that a report was generated by facsimile machine (949) 725-4100 which confirms said transmission and receipt. I, thereafter, mailed a copy to the interested party(ies) in this action by placing a true copy thereof enclosed in sealed envelop(s) addressed to the parties listed below.

☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Newport Beach, addressed as set forth below.

☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

Martin J. Foley, Esq.
Laura A. Wytsma
SONNENSCHEIN NATH & ROSENTHAL
601 South Figueroa Street, Suite 1500
Los Angeles, California 90017-5704
(213) 623-9300
(213) 623-9924

G. Marc Whitehead
Gary Senner
Jordan Sigale
SONNENSCHEIN NATH & ROSENTHAL
8000 Sears Tower
Chicago, Illinois 60606

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than on day after the date of deposit for mailing in affidavit.

I declare that I am employed in the office of a member of the bar of this court whose direction the service was made.

Executed on April 25, 2001, at Newport Beach, California.

/s/ KAREN DIOTTE
KAREN DIOTTE

EXHIBIT F
TO WYTSMA DECLARATION

ORIGINAL

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

INDEPENDENT INK, INC., A CALIFORNIA CORPORATION,	)	
PLAINTIFF,	)	
VS.	)	No. CV98-6686-NM (CWX)
TRIDENT, INC., BELIEVED TO BE A CONNECTICUT CORPORATION; AND DOES 1 THROUGH 50,	)	
DEFENDANTS.	)	
AND RELATED CROSS-ACTION	)	

CONFIDENTIAL TRANSCRIPT — ATTORNEYS' EYES ONLY

VOLUME I

DEPOSITION OF BARRY BRUCKER

LOS ANGELES, CALIFORNIA
MONDAY, JULY 24, 2000

REPORTED BY:

KAREN M. KLEIN
CSR NO. 5368, RDR

JOB NUMBER: 18979SON

LUDWIG KLEIN REPORTERS & VIDEO, INC.,
10868 KLING STREET
TOLUCA LAKE, CALIFORNIA 91602
800.540.0681 Fax 818.508.6326

* * *

[Tr. 120] Q. ARE YOU AWARE OF ANY PROBLEMS WITH TRIDENT PRINTING EQUIPMENT IN THE MORE RECENT PAST?

A. NO.

Q. DO YOU HAVE ANY KNOWLEDGE REGARDING TRIDENT'S MARKET SHARE IN THE INK MARKET AS A WHOLE?

A YES.

Q WHAT'S THAT KNOWLEDGE BASED ON?

A WELL, IT'S BASED, IN PART, ON MY DECLARATION THAT WAS SUBMITTED JUST RECENTLY.

Q WHEN YOU SAY IT'S BASED ON YOUR DECLARATION —

A AND SOME OF THE EXHIBITS THAT WERE ASSOCIATED WITH THEM.

Q OKAY. DO YOU HAVE ANY OTHER SOURCES FOR YGUR KNOWLEDGE AS TO TRIDENT'S MARKET SHARE OTHER THAN THE EXHIBITS THAT WERE ATTACHED TO THE DECLARATION?

A WELL, GIVEN THE FACT THAT IT'S MY JOB TO KNOW THIS INDUSTRY, AND I WOULD CONSIDER MYSELF KNOWLEDGEABLE IN THIS INDUSTRY OF INDUSTRIAL INK JET CODING THROUGH MY YEARS OF CONVERSATION WITH O.E.M.'S AND END USERS, IT'S VERY CLEAR WITHOUT A QUESTION OF A DOUBT THAT TRIDENT HAS ENJOYED AN INCREDIBLE AND UNIQUE NICHE MARKET.

Q ARE YOU AWARE OF RECENT ENTRIES INTO THIS [Tr. 121] NICHE MARKET?

A SURE.

Q WHO ARE YOU AWARE OF?

A I HAVEN'T SEEN THEIR EQUIPMENT, BUT I UNDERSTAND MARKEM, M-A-R-K-E-M, HAS A PIECE OF EQUIPMENT.

Q WHEN YOU SAY PIECE OF EQUIPMENT, IS THAT A PIEZO IMPULSE?

A YOU KNOW, I — I DON'T BELIEVE IT'S WITH A LIQUID INK. I BELIEVE IT'S WITH A SOLID INK, A WAX-TYPE INK. AND THEN A COMPANY XAAR, X-A-A-R. I DON'T KNOW IF THEY'VE SOLD ANY EQUIPMENT, BUT I'VE BEEN HEARING QUITE A LOT OF VERY RECENT RUMBLES AND SOME GOOD THINGS ABOUT THEIR PRINTHEAD'S CAPABILITIES, AND I BELIEVE THAT USES A LIQUID INK.

Q OKAY. ARE YOU FAMILIAR WITH ANY OTHER SYSTEMS?

A NONE THAT COME TO MIND.

Q ARE YOU FAMILIAR WITH MARCONI?

A I'M VERY FAMILIAR WITH MARCONI. THEY USE THE TRIDENT SYSTEM. THEY'RE YOUR LARGEST O.E.M.

Q DO YOU KNOW IF MARCONI HAS ANY OTHER SYSTEMS BESIDES THE TRIDENT SYSTEM?

A I DON'T KNOW. I HAVEN'T SEEN ANY.

Q MARCONI, OF COURSE, IS IN THIS MARKET

* * *

[Tr. 145] Q WHAT THIRD PARTY IS THAT?

A IDENTITY GROUP, PORELON A.K.A. MILIPORE, I THINK.

Q AT ISSUE IN THIS CASE, AS I UNDERSTAND IT, INDEPENDENT IS COMPLAINING ABOUT TRI-

DENT'S SINGLE USE ONLY LICENSE ON THE CONTAINER; IS THAT CORRECT?

A THAT'S RIGHT.

Q WHAT WOULD HAPPEN IF THERE WAS NO LONGER A SINGLE USE ONLY LICENSE ON THE TRIDENT CONTAINER? LET'S SAY, YOU KNOW, WE DECIDE NEXT WEEK TO SCRATCH IT OFF AND NO LONGER HAVE A SINGLE USE ONLY LICENSE.

A I THINK IT WOULD HELP SIGNIFICANTLY OPEN UP THE MARKET AND ALLEVIATE THE FEAR AMONGST THE END USERS.

Q AND THOSE END USERS THEN WOULD DO WHAT?

A THEY WOULD FEEL MORE COMFORTABLE KNOWING THAT THEY COULD EXERCISE THEIR RIGHT TO CHOOSE A SOURCE OF THEIR — THEIR OWN WISHES.

Q ARE THERE LOTS OF SOURCES THAT THEY COULD CHOOSE FROM?

A WELL, INDEPENDENT INK IS ONE SOURCE.

Q OKAY. ARE YOU AWARE OF ANOTHER SOURCE?

A YES.

Q WHAT SOURCE WOULD THAT BE?

A SQUID.

[Tr. 146] Q OKAY. ARE YOU AWARE OF ANY OTHER SOURCES?

A ONE IS APPLIED TECHNOLOGY GROUP.

Q ARE YOU AWARE OF ANY OTHER SOURCES?

A NOT SPECIFICALLY.

Q HAVE YOU EVER HEARD OF GRAPHIC CONTROLS?

A YES.

Q IS MARSH A POTENTIAL SUPPLIER?

A SUPPLIER OF —

Q OF REFILL INK NOT COMING FROM TRIDENT.

A WELL, IT'S PROHIBITED IN THEIR LICENSE, SO I DON'T BELIEVE THEY'RE ABLE TO DO THAT.

Q WELL, WE KNOW THAT THEY ARE.

A DO YOU?

Q SURE.

CAN I HAVE MR. BRUCKER'S DECLARATION, PLEASE? THE MOST RECENT ONE. APPARENTLY I FORGOT TO ASK THE FOLLOW-UP QUESTIONS.

YOU'RE AWARE OF GRAPHIC CONTROLS. I FORGOT TO ASK YOU IF YOU KNEW IF THEY COULD MAKE A INK CONSUMERS COULD TURN TO TO REFILL THESE BOTTLES IF TRIDENT DID AWAY WITH THE SINGLE USE ONLY LICENSE.

A I BELIEVE THEY MAKE AN INK THAT WORKS IN THE MACHINE.

Q WHILE WE'RE FINDING THAT, THE SOURCES THAT YOU HAVE FOR YOUR INK — YOU KNOW, YOU GO OUT AND YOU [Tr. 147] MAY JOB CERTAIN INKS AT CERTAIN SOURCES — ARE THEY POTENTIAL SOURCES FOR INKS TO END USERS IF THE SINGLE USE ONLY LICENSE IS OBLITERATED?

A I'M SORRY, I DON'T UNDERSTAND THE QUESTION. WE MAKE THIS INK.

Q I KNOW YOU DO. BUT IN SOME INSTANCES, YOU TOLD ME EARLIER THAT YOU GO TO VARIOUS

PEOPLE THAT YOU KNOW OR YOU FOUND IN THOMAS'S REGISTER OR VARIOUS CHEMICAL MANUFACTURERS OR PEOPLE THAT YOU'VE MET AT TRADE SHOWS TO MAKE INK ON CERTAIN OCCASIONS. IS THAT GROUP OF PEOPLE THAT YOU MENTIONED BEFORE THAT YOU COULD TURN TO FOR THE PRODUCTION OF INK ALSO AMONG THE PEOPLE THAT WOULD BENEFIT FROM THE OBLITERATION OF THE SINGLE USE ONLY LICENSE?

A POSSIBLY.

Q THAT WOULD BE ANOTHER POTENTIAL CHOICE FOR CONSUMERS?

A IT COULD BE.

Q NOT NECESSARILY WITH RESPECT TO WHATEVER INK YOU'RE MAKING NOW, BUT IN GENERAL, INKS THAT WOULD BE COMPATIBLE WITH TRIDENT SYSTEMS, IS THERE ANY TECHNICAL RAMP-UP TIME THAT YOU NEED TO PRODUCE THAT INK?

A IT'S A MATTER OF EXPERIMENTATION AND TESTING IT IN A HEAD. I COULDN'T TELL YOU WHETHER IT SHOULD [Tr. 148] TAKE TWO WEEKS OR TWO YEARS TO DEVELOP. EVERY COMPANY IS WHERE THEY ARE TECHNOLOGYWISE.

Q WELL, BASED ON THE — THE RULING ON THE INK PATENT IN THIS CASE, SOMEBODY COULD TAKE A LOOK AT THE PUBLIC RECORD WITH RESPECT TO WHAT HAPPENED THERE AND PRETTY MUCH USE THAT AS A ROAD MAP TO MAKE THEIR OWN INK, COULDN'T THEY?

A I DON'T KNOW WHETHER THEY — THEY COULD OR NOT. INK IS A LITTLE BIT MORE COMPLEX THAN PUTTING IT INTO A BATHTUB AND STIRRING IT WITH A BROOM STICK WITH THE

RIGHT INGREDIENTS. SO IT DOES TAKE SOME — SOME TECHNOLOGY, BUT THERE ARE COMPANIES OUT THERE THAT DO HAVE THAT TECHNOLOGY, NO QUESTION ABOUT IT.

Q WOULD YOU CHARACTERIZE IT AS A FEW DOZEN COMPANIES THAT HAVE THAT CAPABILITY?

A I WON'T CHARACTERIZE HOW MANY COMPANIES ARE OUT THERE.

Q IS THAT BECAUSE YOU DON'T KNOW OR —

A I DON'T KNOW SPECIFICALLY THE CAPABILITIES OF ALL THE COMPANIES OR ALL MY COMPETITORS, ALL MY SUPPLIERS, WHETHER THIS IS A NICHE FOR THEM OR NOT. IT'S — IT HASN'T BEEN IMPORTANT FOR ME TO KNOW.

Q BUT THERE ARE — THERE IS A GROUP OF PEOPLE OUT THERE THAT COULD COME IN AND OFFER VARIOUS CHOICES TO CONSUMERS TO REFILL THE TRIDENT INK BOTTLE [Tr. 149] IF THERE WAS NO SINGLE USE ONLY LICENSE?

A IF THEY DIDN'T FEEL THEY'D BE GETTING SUED BY I.T.W., I'M SURE THERE WOULD BE.

MR. SIGALE: LET'S GO AHEAD AND MARK THIS AS EXHIBIT 21, PLEASE.

(DEFENDANT'S EXHIBIT 21 WAS MARKED BY THE CERTIFIED SHORTHAND REPORTER.)

BY MR. SIGALE:

Q MR. BRUCKER, YOU HAVE EXHIBIT 21 BEFORE YOU?

A I DO.

Q DO YOU RECOGNIZE EXHIBIT 21?

A SURE.

Q WHAT IS IT?

A IT'S THE DECLARATION — MY DECLARATION.

Q THAT WAS RECENTLY FILED WITH THE COURT IN THIS CASE?

A A COUPLE WEEKS AGO, I THINK.

Q TAKE A LOOK AT EXHIBIT 5 FOR ME.

A OKAY.

Q HAVE YOU SEEN THIS LETTER BEFORE?

A YES, I HAVE.

Q OKAY. REMEMBER I'D ASKED YOU IF MARSH WAS ONE OF THE PEOPLE WHO COULD COME IN WITH THEIR OWN INK?

A YES.

* * *

[Tr. 191] Q AND ARE THERE SOME CONSUMERS THAT ARE WILLING TO BUY THE MOTOROLA POWER P.C. CHIP IN A MAC COMPUTER?

A YES, INDEED.

Q LET'S BRING THAT BACK NOW TO THIS MARKET.

A SURE.

Q ARE THERE SOME SELLERS WHO ARE WILLING TO PUT BAR CODES ON THEIR CARTONS BY USING THERMAL TRANSFER LABELS?

A SURE.

Q ARE THERE SOME END USERS THAT ARE WILLING TO PUT DIFFERENT MARKINGS ON THEIR BOXES BY USING VALVEJET?

A NOT IF THEY WANT A BAR CODE.

Q IF THEY WANT A BAR CODE, WHAT OPTIONS ARE THERE OPEN TO THEM BESIDES A TRIDENT SYSTEM?

A PRETTY MUCH FOR INK JET, IF THEY WANT TO GO THE INK JET ROUTE, TRIDENT PRETTY MUCH — POSSIBLY UP UNTIL VERY RECENT WITH MARKEM AND MAYBE XAAR COMING OUT WITH A PRODUCT, TRIDENT OWNED THE MARKET. THEY HAD IT.

Q TRIDENT CREATED THE MARKET.

A THEY OWNED THE MARKET.

Q WAS THERE ANOTHER PIEZOELECTRIC IMPULSE INK JET BEFORE TRIDENT CAME OUT ON THE MARKET WITH ONE?

* * *

[Tr. 205] THINK CRAYONS WILL WORK.

A OKAY.

Q WHEN YOU'RE TRYING TO PUT — BECAUSE YOU FOCUSED ON THIS HIGH END PRINTING ISSUE.

A OKAY

Q WITH BAR CODES AND SAYING THAT VALVEJET WON'T DO THE BAR CODING JOB.

A THAT'S RIGHT.

Q BUT WITH RESPECT TO BAR CODING, CERTAINLY LABELING WILL WORK, AND THERMAL PRINTING ON LABELS WILL WORK TO GET A BAR CODE ON THE BOX; IS THAT CORRECT?

A YES.

Q AND ALSO THE TRIDENT SYSTEM; IS THAT CORRECT?

A YES.

Q AND NOW POTENTIALLY THERE'S THIS ENTRANT, XAAR. THEY ALSO WERE CLAIMING THAT THEY'LL BE ABLE TO PUT A BAR CODE ON A BOX.

A SO I'VE READ.

Q AND THERE MAY BE ONE OR TWO OTHER POTENTIAL ENTRANTS THAT —

A THERE MAY BE.

Q THEN ALL OF THESE PEOPLE HAVE ALTERNATIVES FOR HAVING A BAR CODE ATTACH SOMEHOW TO A BOX —

* * *

[Tr. 207] THEM?

A I'VE HEARD OF THEM.

Q INTERMEC?

A I'VE HEARD OF THEM.

Q THERE ARE A NUMBER OF OTHER PEOPLE THAT DO LABELING. WE SAW THE LOVESHAW LABELING SYSTEM AS WELL.

A SURE.

Q AND THOSE ARE AMONG THE ALTERNATIVES AVAILABLE FOR GETTING BAR CODES ON THE OUTSIDE OF A CARTON.

A YES.

Q NOW, IN THE SECOND — FIRST AND SECOND AMENDED COMPLAINTS, THERE'S AN ALLEGATION

REGARDING TYING OF VARIOUS PRODUCTS, AND THERE'S A SIMILAR ALLEGATION IN YOUR MOTION FOR SUMMARY JUDGMENT THAT TRIDENT HAS TIED THE INK TO THE INK BOTTLE. ARE YOU AWARE OF THAT ALLEGATION?

A YES.

Q SO IN THAT CASE, THE PRODUCT THAT PEOPLE ARE BEING FORCED TO BUY IS INK TO GET THE CONTAINER. IS THAT YOUR CONTENTION?

A I'M A LITTLE CONFUSED BY SEMANTICS THERE.

Q OKAY.

A SO

* * *

[Tr. 225] ***WITNESS'S CERTIFICATE***

I AM THE WITNESS IN THE FOREGOING DEPOSITION. I HAVE READ THE FOREGOING DEPOSITION AND HAVING MADE SUCH CHANGES AND CORRECTIONS AS I DESIRE, I CERTIFY THAT THE SAME IS TRUE OF MY OWN KNOWLEDGE, EXCEPT AS TO THOSE MATTERS WHICH ARE THEREIN STATED UPON MY INFORMATION OR BELIEF, AND AS TO THOSE MATTERS, I BELIEVE IT TO BE TRUE.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.

EXECUTED ON AUGUST 9, 2000, AT GARDINA, CA.

/S/ BARRY BRUCKER
Barry Brucker

[Tr. 226] REPORTER'S CERTIFICATE

I, KAREN M. KLEIN, CSR NO. 5368, RDR, A CERTIFIED SHORTHAND REPORTER IN AND FOR THE STATE OF CALIFORNIA, DO HEREBY CERTIFY:

THAT PRIOR TO BEING EXAMINED, THE WITNESS NAMED IN THE FOREGOING PROCEEDINGS WAS BY ME DULY SWORN TO TESTIFY TO THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH;

THAT SAID PROCEEDINGS WERE TAKEN BY ME IN SHORTHAND AT THE TIME AND PLACE HEREIN NAMED AND WAS THEREAFTER TRANSCRIBED INTO TYPEWRITING UNDER MY DIRECTION, SAID TRANSCRIPT BEING A TRUE AND CORRECT TRANSCRIPTION OF MY SHORTHAND NOTES.

I FURTHER CERTIFY THAT I HAVE NO INTEREST IN THE OUTCOME OF THIS ACTION.

DATED: AUGUST 4, 2000

/S/ KAREN M. KLEIN
Karen M. Klein
CSR 5368, RDR

EXHIBIT H
TO WYTSMA DECLARATION

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

INDEPENDENT INK, INC., a California corporation Plaintiff vs. TRIDENT, INC., believed to be a Connecticut corporation, and DOES 1 through 50, Defendants	Case No. CV98-6686-NM (CWX)
TRIDENT, INC., a Connecticut corporation Counterclaimant, vs. INDEPENDENT INK, INC., a California corporation, and ROES 1 through 10, Counterdefendants.	

THE DEPOSITION OF THOMAS BARNETT

St. Louis, Missouri
Monday, July 31, 2000

Reported by:

CHERI A. RAIFFIE, CSR
Notary Public
JOB No. 571580A

* * *

[Tr. 19] Q. To the end user?

MR. RUSSELL: Same objection.

A It depends on the end user's decision as to whether there's an advantage or a disadvantage. I mean, our industry would tell you that there's a cost advantage of using the Peizo Electric versus a label. The label industry would probably tell you that there is a quality advantage of using a label and more reliability issue.

Q. Did you have to deal with that issue with your customers: in other words, did you have to convince your customers to use the Peizo Electric versus the labeling?

A. Yes, sir.

Q. And were you successful in doing that?

A. Generally we were successful. We lost business to people who sold labels.

Q. And when you were successful was it because of the costing issue?

MR. RUSSELL: Objection; vague.

A. I can't say for sure why the customer bought but I mean obviously from our perspective the selling points were that we were a cost -effective solution.

BY MR. O'CONNOR:

Q. Other than cost were there any uses for the direct Peizo Electric printing that would not be serviceable by the labeling industry?

* * *

[Tr. 45] codes directly on a package?

A I have no specific knowledge today and I have not been involved since May of '99.

Q. While you were president of Marsh did Marsh begin selling a print-and-apply labeling system?

A. Yes.

Q. And Marsh was touting that print-and-apply label system for use in bar coding; is that correct?

A. Yes.

Q. Returning your attention to Exhibit 10003; do you still have it?

A. Yes, sir.

Q. I believe you had said that you did not know who Cap Ventures was; is that correct?

A. I have a recollection of the name but I don't know specifically who they are.

Q. Do you have any idea how they gathered the data that is reflected in this exhibit of 10003?

A. No, sir.

Q. Do you have any idea of when they gathered this data for the 1999 projection?

A. No, sir.

Q. Do you have any idea how they defined the high resolution inkjet carton coding market to make these numbers?

A. No, sir.

[Tr. 72] NOTARIAL CERTIFICATE

STATE OF MISSOURI)
) SS
CITY OF ST. LOUIS)

I, CHERI A RAIFFIE, a Certified Shorthand. Reporter and Notary Public within and for the State of Missouri, do hereby certify that there came before me at the law offices of Bryan Cave, 1 Metropolitan Square, 211 N. Broadway, St. Louis.

THOMAS BARNET,

Who was by me first duly sworn to testify to the truth and nothing but the truth of all knowledge touching and concerning the matters in controversy in this cause; that the witness was thereupon carefully examined under oath and said examination was reduced to writing by me; and that this deposition is a true and correct record of the testimony given by the witness.

I further certify that I am neither attorney nor counsel for nor related nor employed by any of the parties to the action in which this deposition was taken; further that I am not a relative or employee of any attorney or counsel employed by the parties hereto or financially interested in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 9th day of August, 2000.

_____

Cheri A. Raiffie, CSR
(Notary Public)

EXHIBIT I
TO WYTSMA DECLARATION

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

INDEPENDENT INK, INC., a California corporation, Plaintiff, vs. TRIDENT, INC., believed to be a Connecticut corporation and DOES 1-50, inclusive, Defendants.	) No.	CV98-6686-NM (x)

DEPOSITION OF ELAINE PULLEN

Newport Beach, California
Tuesday, August 22, 2000

VOLUME I

Reported by:

SHERYL HILTON MEYER
CSR No. 2852
JOB No. 572230

* * *

[Tr. 32] that would be there, but I couldn't say if it would actually work in our printhead. I haven't tested that.

BY MR. O'CONNOR:

Q Do you know if anyone has?

A Not to my knowledge.

Q All right. And is there Xaar printhead technology utilized for the same purpose as the Trident technology?

A Yes, it is.

Q Are there any advantages to the Trident technology over the Xaar technology?

A That depends on the application.

Q Let's say for carton coding.

A There are differences that may appear as competitive advantages for some customers and not to others.

Q Okay. What differences do you consider to be competitive advantages for Trident?

A I consider Trident's advantages to be that we have a very rugged stainless steel and metal printhead that's repairable that prints at high speed and is a proven technology.

Q What, if any, advantages are there of the Trident technology over the Spectra technology?

A Again our printhead is repairable which means [Tr. 33] the orifice plate can be removed and cleaned and replaced which is a benefit to the end user because the environments that these products are in are very dirty and dusty, a lot of vibration, and it's not an office environment that's clean and under good control. So that's economically an advantage for the end user. I think the Spectra printhead has a metal construction. It's a very good product. It's well built.

Q Do you know what percentage of the carton coding — I'll call it piezoelectric printhead direct printing technology — is serviced by Xaar as opposed to Trident?

MR. SIGALE: Objection. Ambiguous. Objection. Calls for a legal conclusion and lacks foundation.

BY MR. O'CONNOR:

Q Do you know?

A I don't have Xaar's numbers.

Q All right. Trident sells to OEMs, correct?

A Yes, we do.

Q And those OEMs in turn make actual printers that are then utilized with the carton coding and other types of direct printing; is that correct?

A Correct.

Q And does Xaar/MIT — do they make their own printers?

[Tr. 34] A No. Xaar and MIT just make the printheads and the inks, and they have OEMs — some of them, the same OEMs as Trident who build the system.

Q Okay. Do they have any OEMs that Trident doesn't have?

A Yes, they do, many.

Q Do you know who those are?

A They have Weber, for example. They're a significant company in the industrial market.

Q Okay. Who has Weber? Xaar?

A Xaar.

Q And do you know what percentage of the end users receive — use Weber equipment?

A I do not.

Q All right. Any other company, any other OEMs that use the Xaar printheads?

A In the carton coding market?

Q Yes, in the carton coding market.

A Domino.

Q Domino, okay. Any others?

A I think there are some other smaller OEMs that they have. I don't recall the name. There are two other small ones,

but Weber and Domino are both significant companies worldwide.

Q Does Spectra sell to OEMs?

[Tr. 35] A Spectra sells through its parent company Markem, and Markem sells direct to end users typically and may have one or two distributors, but the majority of the sales are direct to end users.

Q Okay. And do you know what portion of the direct printing carton coding Marsh is serviced by the Markem products?

MR. SIGALE: Objection to the extent it calls for a legal conclusion and lacks foundation.

THE WITNESS: I don't have any information on that.

BY MR. O'CONNOR:

Q Okay. Is there anybody at Trident that would have any information about relative market shares of Weber, Domino and Markem?

A That's not available information to us, no.

Q Does Trident rely on any services such as Cap Ventures to at least get some information concerning what percentage of the markets are occupied by competitors of Trident?

A It's one of many sources of information that we would look at, but I quite honestly don't think that any of them portray the market very accurately or completely.

Q What other sources do you look at besides Cap Ventures?

* * *

[Tr. 37] know?

A The only customer I'm aware of in the case coding market is ATG in Belleville, Illinois.

Q Do you know if they are a significant — such a significant enough of end users in the carton coding market?

MR. SIGALE: Objection to the extent it calls for a legal conclusion, and objection, lack of foundation.

THE WITNESS: Yes, I don't have any market data on them.

BY MR. O'CONNOR:

Q Okay. You mentioned Aprion.

A Correct.

Q And again do they make printheads?

A Yes, they do.

Q And are they piezoelectric printheads?

A Yes.

Q And do they make printers?

A They do make printers also, but not for the case coding market at this stage.

Q Okay. For whom does Aprion make printheads?

A They have, I think, two or three partners where their focus at the moment is on things like electronic publishing, book printing, textile printing, but they're

* * *

[Tr. 39] Q Okay. You mentioned Hewlett-Packard.

A Right.

Q Does Hewlett-Packard make piezoelectric printheads that are used in carton coding?

A Hewlett-Packard makes a thermal printhead that is used in carton coding.

Q They don't make piezoelectric?

A Correct.

Q Okay. And you mentioned label printers. Were there any others that you had in mind besides Hewlett-Packard?

A Data Products I mentioned also.

Q Okay.

A And Marsh have developed product, a piezo printhead.

Q And do you know if Marsh's piezo printhead is used in carton coding?

A Yes, it is.

Q Okay. And do you know when they first came out with that?

A The first time I saw it launched was at a trade show, I think, in — last fall.

Q Okay. Do you know if they're selling any of those?

A Yes, I believe they are.

* * *

[Tr. 101] evidence. Foundation. Calls for a hypothetical.

THE WITNESS. Well, we just — we wouldn't look at the market that way because there — a label could be and is a — more of a competitive challenge for us than another ink jet product.

BY MR. O'CONNOR:

Q Okay. But I'm just talking about ink jet, this technology, the ink jet technology. Do you have any approximate understanding what — knowledge as to whether they would be more than 10 percent approximately?

MR. SIGALE: Objection. Ambiguous.

10 percent of what, Mr. O'Connor?

MR. O'CONNOR: 10 percent of the overall market.

THE WITNESS: In —

BY MR. O'CONNOR:

Q In piezoelectric ink jet only.

A Well, in revenue, number of heads sold?

Q Number of heads sold.

A Number of installations?

Q Yes. Number of heads sold, number of installations.

A Uh-huh.

MR. SIGALE: Objection. Compound. Objection. Calls for a legal conclusion.

* * *

[Tr. 207] I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were placed under oath; that a verbatim record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; further, that the foregoing is an accurate transcription thereof.

I further certify that I am neither financially interested in the action nor a relative or employee of any attorney of any of the parties.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated:

SHERYL HILTON MEYER
CSR No.2852